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**DATE:** September 10, 2013

**TO:** Board of County Commissioners

**FROM:** Jose E. Larrañaga, Commercial Development Case Manager *gdf*

**VIA:** Penny Ellis-Green, Land Use Administrator *PEG*  
Vicki Lucero, Building and Development Services Manager *VL*  
Wayne Dalton, Building and Development Services Supervisor *WD*

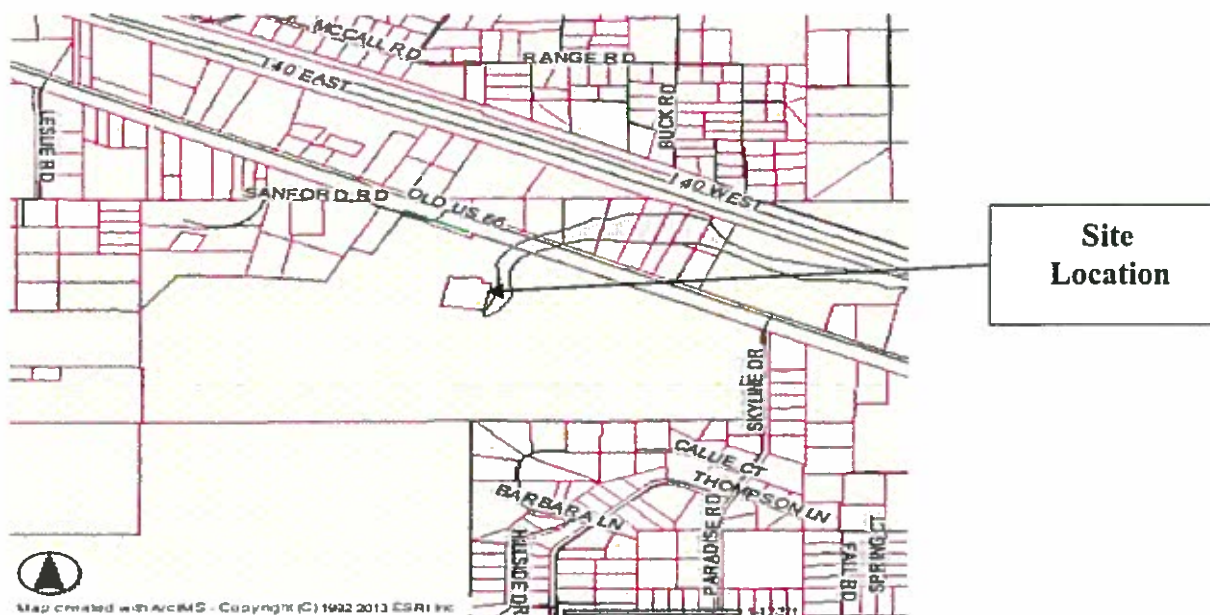
**FILE REF.:** CDRC CASE # V/Z/PDP 13-5080 Windmill Water Variance, Master Plan & Preliminary Development Plan.

**ISSUE:**

Diana & Leon Richter, Applicants, Jim Siebert, Agent, request Master Plan Zoning & Preliminary Development Plan approval to allow a small scale commercial use consisting of a domestic water supply service. This request includes a variance of Article VII, Section 6.4.1.d (Requirements for Water Availability Assessments). The Applicant also requests that Final Development Plan be approved administratively.

The property is located at 2042 Old U.S. 66, near the Town of Edgewood, within Section 34, Township 10 North, Range 7 East, (Commission District 3).

**Vicinity Map:**









## **SUMMARY:**

On June 20, 2013, the County Development Review Committee (CDRC) met and acted on this case. The decision of the CDRC was to recommend approval of the Applicants request for a variance of the requirement to demonstrate a 100 year water supply, Master Plan Zoning, Phase I and II Preliminary Development Plan and to allow the Final Development Plan, for Phase I and II to be reviewed and approved administratively.

The Applicants request Master Plan Zoning approval to allow a small scale commercial use consisting of a domestic water supply service to be completed in two phases. The request also includes Preliminary Development Plan approval for Phase I and II. Phase I consists of a 2,200 square foot residence, a 1,064 square foot garage, a 100 square foot shed, a 1,188 square foot bottling plant, a 224 square foot office (job trailer), a 5,000 gallon storage tank, a 50 square foot self-serve dispenser structure, a domestic well and a well registered with State Engineer as a commercial well. Phase II will consist of a 1,200 square foot addition to the existing dwelling to be utilized as an office. The site is located within the Edgewood Traditional Community where commercial zoning may be approved anywhere, provided the performance standards and criteria set forth by the Code are met. The Applicants request includes that the Final Development Plan, for Phase I and II, be reviewed and approved administratively.

Windmill Water is currently operating under a Home Occupation Business License issued by Santa Fe County in 1995. The property is within the proposed infill annexation of the Town of Edgewood where Santa Fe County currently maintains regulatory jurisdiction.

On December 21, 1995, the Land Use Administrator (LUA) approved a home occupation business license, subject to conditions, for Windmill Water. On March 2, 2010, a notice of violation was issued to Windmill Water for exceeding the home occupation business license criteria. On May 6, 2010, Leon and Diana Rictor submitted a letter of intent and documents requesting a modification of the existing home occupation business license. On May 18, 2010, the LUA denied the request by Windmill Water for modification of the existing home occupation as it no longer met the criteria for a home occupation as set forth in Code. In a letter, dated May 26, 2010, the Agent on behalf of Windmill Water requested an appeal of the LUA decision to the CDRC. On May 19, 2011 the CDRC denied the Applicants request.

Windmill Water operates as a bottling and distribution domestic water supply service. The Applicants currently reside on the property. The request for Master Plan and Preliminary Development Plan includes a use list which is consistent with the guidelines for types of permitted uses within a small scale commercial district.

Article III, § 4.2.2.b.1)b (Traditional Community Districts) states: "commercial or light industrial zoning may be approved in the Traditional Community provided that the re-zoning to be approved is similar in type and scale to those uses suggested for neighborhood or small scale districts by Article III, Section 4.3.2".

Article V, § 5.2.1.b states: "a master plan is comprehensive in establishing the scope of a project, yet is less detailed than a development plan. It provides a means for the County Development



Review Committee and the Board to review projects and the sub-divider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a preliminary and final plat approval”.

Article V, § 7.1.3.a (Preliminary Development Plans) states: “a Preliminary Development Plan may be only a phase or portion of the area covered by an approved Master Plan, so long as the Preliminary Development Plan substantially conforms to the approved Master Plan”.

The Applicants are also requesting a variance of the requirement to demonstrate a 100 year water supply as per Article VII, § 6.4.1.d.

Article VII § 6.4.1.d. (Requirements for Water Availability Assessments) states: “for developments where the source of water will be individual domestic wells or shared wells permitted pursuant to Section 72-12-1, the applicant shall demonstrate a one hundred (100) year supply and shall submit a geo-hydrologic report in accordance with Section 6.4.5, or a reconnaissance water availability assessment in accordance with Section 6.4.6, if applicable”.

The well utilized for this development is registered with the State Engineer as a commercial well (72-12-3). The variance requested by the Applicant applies to a domestic well (72-12-1). Although the property is currently zoned residential, the State Engineer allowed a commercial well to be utilized for the business. The Land Development code does not address the use of an existing commercial well on a residential parcel of land. Staff has determined that the use of water for this non-residential development is essentially a community water system because it is being distributed to the community for consumption and water quality may impact the community. Therefore, the well being utilized for this development is subject to the requirements of Article VII § 6. Table 7.4 (Required code sections for water supply) and Article VII § 6.4.2 (refer to community wells and community water systems in Exhibit 7), which require a water availability assessment. Nevertheless, whether you consider staff’s determination or the request made by the Applicant under a different code provision both would require proof of water availability, and a variance would be needed.

The Applicants state the following reasons to allow the variance: cost of preparing a geo-hydrological report; the property will be annexed to the Town of Edgewood and compliance with County Code is not required; business is borderline eligible for a Home Occupation Business; the well could not be used for several days during the hydrologic testing, which jeopardizes the viability of the business; the well has a 1.78 acre foot water right associated with it and can be increased up to 3 acre feet.

Staff Response: monetary constraints are not considered a hardship by the Code; Santa Fe County currently maintains regulatory jurisdiction of this site; it has been established by the CDRC that this business exceeds the Home Occupation criteria; the Applicants shall demonstrate a one hundred (100) year supply to support the use of 1.78 acre feet water per annum.

Article VII § 6. Table 7.4 (Required code sections for water supply) states: ‘all non-residential development in which the project uses more than 0.25 acre feet of water annually or in which the



applicant obtains water other than through a well which is permitted under Section [ 72-12-1 NMSA1978 as it may be amended" requires § 6.4 Water Availability Assessment.

Article II, § 3 (Variances) states: "Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking of property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified".

This Application was submitted on March 8, 2013.

**Building and Development Services staff has reviewed the Applicants request for a variance of Article VII § 6.4.1.d. (Requirements for Water Availability Assessments) for compliance with pertinent Code requirements and has found that the following facts presented do not support the request: a geo-hydrologic report is required to demonstrate that groundwater sufficient to meet the maximum annual water requirements of the development is physically available and can be practically recovered to sustain the development for a continuous period of one hundred (100) years; the Applicants shall demonstrate a one hundred (100) year supply to support the use of 1.78 acre foot water per year; a variation or modification of this section of the Code may be considered more than a minimum easing of the requirements.**

**Building and Development Services staff has reviewed this project for compliance with pertinent Code requirements and has found that the following facts presented support the request for Master Plan and Preliminary Development Plan: the Application is comprehensive in establishing the scope of the project; the proposed Preliminary Development Plan substantially conforms to the proposed Master Plan; the Application satisfies the submittal requirements set forth in the Land Development Code, with the exception of the water availability element of the request.**

**The review comments from State Agencies and County staff have established that this Application, for Master Plan and Preliminary Development Plan, is in compliance with State requirements, Article III, § 4.4, Development and Design Standards, Article V, § 5, Master Plan Procedures but is not in compliance with Article V, § 7 Development Plan Requirements of the Land Development Code regarding § 7.1.2.y (Water Supply Plan-Water System).**



<b>APPROVAL SOUGHT:</b>	Master Plan and Preliminary Development Plan approval for Phase I and II to allow a small scale commercial use consisting of a domestic water supply service on 2.84 acres and Phase I and II Final Development Plan to be processed Administratively.
<b>VARIANCE:</b>	Variance of Article VII, § 6.4.1.d. Requirements for Water Availability Assessments.
<b>GROWTH MANAGEMENT AREA:</b>	SDA 2, Edgewood Traditional Community
<b>HYDROLOGIC ZONE:</b>	Basin Hydrologic Zone, minimum lot size in this area is 2.5 acres.
<b>ARCHAEOLOGIC ZONE:</b>	High, less than 5 acres within a Traditional Historic Community, reviewed by NMSHPD, no survey required.
<b>ACCESS AND TRAFFIC:</b>	The property takes access from a private easement Via State Road 333 (Old Route 66).
<b>FIRE PROTECTION:</b>	Edgewood Fire District, 50 foot radius cul-de-sac required.
<b>WATER SUPPLY:</b>	Existing on-site well registered with State Engineer as a commercial well which has beneficial use of 1.78 acre feet of water per year. The Applicant has not proven water availability to support 1.78 acre feet of water use for this well. There is a second well on the site which is used for domestic water for the residence. Water restrictive covenants, restricting the water use to 0.25 acre feet per year, shall be recorded along with the Final Development Plan for the domestic well.
<b>LIQUID WASTE:</b>	Private septic, reviewed by NMED, Applicant has addressed NMED comments.
<b>SOLID WASTE:</b>	Utilize East Mountain Recycle, Utilize the Transfer Station in Edgewood to dispose of all other solid waste.
<b>FLOODPLAIN &amp; TERRAIN MGMT:</b>	Terrain Management: As a result of the man-made slopes from previous construction and grading of the residence, the property has 20%-30% cut and fill slopes. The natural slopes of the property range from 5%-8%. As a result, the



site conforms to Article VII, Section 3.3 (Terrain Management Plan.)

Storm Drainage and Erosion Control: The Applicants' proposal shows an existing topography and soils plan, but does not show existing ponding. This can be shown on existing conditions sheet (P-3). With the inclusion of ponding, the submittal is in conformance with Article VII, Section 3.4.6 and Ordinance 2008-10 Flood Damage Prevention and Stormwater Management Ordinance. The Applicant shall include a pond detail prior to final development plan approval.

**SIGNAGE AND LIGHTING:**

The Applicants are not proposing any signage in the request therefore the sign element of the request meets the sign standards of the Code.

The Applicants are proposing to utilize existing outdoor lighting on the property. The Applicants currently have two pole mounted lights and three building mounted lights. The Applicants have provided cut-sheets and pole diagram with dimensions for all existing lighting. Staff has determined that the lighting element of the Application does comply with Article III, Section 4.4.4 h and Table 3.1. (Lighting).

**EXISTING DEVELOPMENT:**

A 2,200 square foot residence, 1,064 square foot garage, 100 square foot shed, 1,188 square foot bottling plant, 224 square foot office (job trailer), 5,000 gallon storage tank and a 50 square foot self-serve dispenser structure are existing on the site.

**ADJACENT PROPERTY:**

The site is bordered to the east by an aggregate mine and to the north, south and west by a large parcel of agricultural property. The site is set back south of State Road 333 approximately 424 feet.

**PARKING:**

Currently there are 2 existing parking spaces 1 being handicap on the site. The Applicants have provided 1 parking space per employee plus 1 parking space per 400 square feet of commercial area. Based on 2,162 square feet of commercial space and 1 employee the Applicants have provided a total of 6 parking spaces. The Applicants have provided parking turnaround at the self-serve kiosk. The Applicants have provided a parking area for the delivery truck. Staff has determined that the parking element of the



Application meets the criteria set forth in Article III, Section 9 (Parking Requirements).

**LANDSCAPING:**

The Applicants have submitted a landscaping plan illustrating the existing vegetation on the site. The existing vegetation/landscape provides sufficient screening given the set back from the access road way and the use of the adjoining properties, therefore the landscape element of the Application does comply with Article III Section 4.4.4.f 4.

**RAINWATER HARVESTING:**

The Applicants have submitted a water harvesting plan in an effort to meet the intent of the Code. The Applicants propose a 1,000 gallon cistern to capture rain water from the existing bottling plant and garage therefore the water harvesting element of the request meets the intent of Ordinance 2008-4, which requires that a 3,378 cistern be installed for 2,252 square feet of roof area. Upon Final Development Plan for Phase II the addition and existing residence shall meet the standards set forth in Ordinance 2008-4.

**AGENCY REVIEW:**

<u>Agency</u>	<u>Recommendation</u>
NMOSE	No Opinion
NMDOT	Approval
NMED	Conditional Approval
NMDHP	Approval
County Fire	Conditional Approval
County PW	Conditional Approval
County Hydrologist	Valid Water Right
Planning	Approval

**STAFF RECOMMENDATION:** Staff recommends denial of the Applicants request for a variance of Article VII § 6.4.1.d. Requirements for Water Availability Assessments.

Staff has determined that without proof of adequate water availability, staff cannot support the request for Master Plan Zoning and Phase I and II Preliminary Development Plan.

If the decision of the BCC is to approve the variance request and approve the request for Master Plan Zoning and Phase I and II Preliminary Development Plan to allow a small scale commercial use, consisting of a bottling and distribution domestic water supply service on 2.84 acres and Phase I and II Final



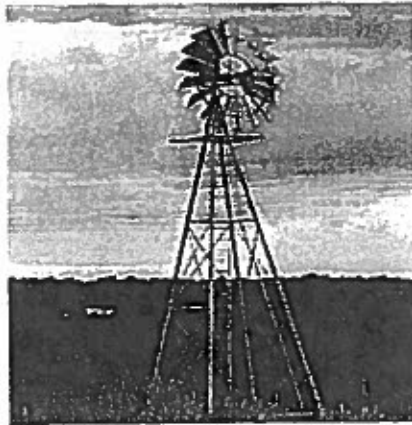
**Development Plan to be reviewed and approved administratively, staff recommends the following conditions be imposed:**

1. The Applicant shall comply with all review agency comments and conditions as per **Article V, § 7.1.3.c.**
2. Master Plan with appropriate signatures, shall be recorded with the County Clerk as per **Article V, § 5.2.5.**
3. Final Development Plan for Phase I shall be submitted within a timely manner, meeting all criteria set forth in **Article V, § 7,** to be reviewed and approved administratively.

**EXHIBITS:**

1. Applicants Report
2. Drawings
3. Article III, § 4.2.2.b.1)b (Traditional Community Districts)
4. Article V, § 5 (Master Plan Procedures)
5. Article V, § 7 (Preliminary Development Plans)
6. Variance Request
7. Article VII, § 6.4.1.d. (Requirements for Water Availability Assessments)
8. Article VII, § 6 Table 7.4 (Required code sections for water supply)
9. Article II, § 3 (Variances)
10. Aerial Photo of Property
11. Agency Reviews and Comments
12. Letters of Support
13. Summary of Revisions Submitted by Applicant
14. CDRC Minutes





# MASTER PLAN AND PRELIMINARY DEVELOPMENT PLAN REPORT

PREPARED

FOR

WINDMILL WATER INC.

PREPARED

BY

JAMES W. SIEBERT & ASSOCIATES  
INC

MARCH 8, 2013



NBD-9



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## APPENDICES

Appendix A	Town of Edgewood Business Registration
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Appendix E	Site Threshold Assessment
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## **Introduction and Background**

A request for commercial zoning is submitted to Santa Fe County Land Use for a small scale commercial use consisting of a domestic water supply service located near the town of Edgewood. This is a complicated issue caused by the lack of definition for jurisdictional authority. This property was included in the infill annexation for the Town of Edgewood, denied by the Municipal Boundary Commission, approved by the District Court and then denied by the Appellate Court. The Town has filed a petition to appeal the Appellate Court decision. The owners of the land have operated as a home occupation, with a business license from Santa Fe County. The business has expanded to the point that Land Use has determined that Windmill Water can no longer operate under a home occupation license.

The history of this business and changes to regulatory authority is described below.

12/1995 Approved for Home Occupation Use Permit

1997 - Self Serve Building Installed

9/2009 - Infill annexation submitted by Town of Edgewood.

8/25/10 - District Court ruled in Town's favor, infill area is annexed to Town of Edgewood.

Municipal Boundary Commission appeals case District Court Decision to Court of Appeals.

1/24/13 - Court of appeals rules in favor of Municipal Boundary Commission, and regulatory jurisdiction reverts back to Santa Fe County.

2/13 Town of Edgewood submitted petition to appeal to Supreme Court.

## **Project Location**

This 2.84 acre tract is located east of Old Route 66 and south of the town of Edgewood within Township 10N, Range 7E, Sections 34 & 35 as shown on the USGS maps. The property is located approximately 424 feet off of Old Route 66, with access provided to the property by a 25 foot access and utility easement from Old Route 66.

During time the property was located in the Town of Edgewood the Ricters secured a business license from Edgewood included in the report at Appendix A.



### **Ownership and Legal Lot**

The property is owned by Leon and Diana Richter who have resided at the current residence for 21 years. Windmill Bottled Water and Coffee Service which provides a water and coffee delivery service was opened in 1996 and has become a successful business in the southern part of the County. The legal lot of record was created in 1992 by a plat recorded in Book 241 Page 021. A reduction of the recorded plat and the warranty deed for the property is attached as Appendix B.

### **Development Request**

This property is located within the Traditional boundary of Edgewood as shown on the Santa Fe County base map. An enlargement of the map for Edgewood with the location of the subject property described on the map is provided in Appendix C to the report. Since the property is located within the Traditional boundary of Edgewood this tract of land is eligible for zoning for under local or small scale commercial districts as set forth in Article III, Section 4.3.2 of the Land Development Code. The applicant is requesting a small scale commercial use which includes the existing residence and the bottling and distribution of water. An application for master plan and preliminary development plan and approval of the final development plan by administrative action is included in the development review application.

### **Existing Conditions and Adjoiners**

This 2.84 acre tract is entirely surrounded by a larger parcel, a portion of which has been used for aggregate mining for several years. The aggregate mining operation existed prior to the adoption of the Land Development Code in 1980 and is, therefore, a legal non-conforming use. The property is served by Central New Mexico Electric, Century Link telephone, Comcast cable and propane gas. Comcast Cable and Central New Mexico Electric extend into the property on poles. Telephone is located underground along the driveway extending from Old Route 66 to the house, and office. There are other commercial uses in the area located on the west and east side of Old Route 66. These uses consist of a self-storage facility, equipment rentals and a veterinarian clinic and a commercial use that is not identified by a sign. The locations of these commercial uses relative to the subject property are shown on a Google map attached as Appendix D.

There is an existing septic tank and leach-field on the property and two wells, one of which is used for domestic purposes and one of which is used for business purposes. There is a 5,000 gallon water storage that is the storage for the water that is bottled and delivered to customers. The driveway from Old Route 66 is asphalt paved with a minimum width of 18 feet.



The existing buildings on the property consist of the following:

Lot Size	2.84 acres
Residence:	2,200 square feet
Garage for Residence:	1,064 square feet
Bottling Plant:	1,188 square feet
Job trailer (office):	224 square feet
Existing storage shed:	100 square feet
Self-service dispenser:	<u>50</u> square feet
<b>Total</b>	<b>4,826</b>

Lot coverage for all structures: 4.0 percent

### Fire Protection

The closest fire station is located in the Town of Edgewood. Under a joint service agreement the Town of Edgewood will be the first responder to this area with back up from the County Fire Marshal from other fire stations in the area. The fire station for the Town of Edgewood is manned with paid fire fighters. There is a solar activated gate at the entry to the property at the water dispenser. The code that activates the gate has been provided to the fire substation.

The distance from the Edgewood fire station to Windmill Water is 1.7 miles measured along Old Route 66 and the entry drive to the property. Fire extinguishers are currently stationed at those places in the bottling building and job trailer as directed by the Fire Marshal.

### Access

The driveway access to the site is located on Old Route 66 (or State Road 333) at mile marker 20.7. The driveway access to Old Route 66 is paved with asphalt and has a width of 18 feet. Old Route 66 is flat in this area and the driveway meets the minimum site distance of 550 feet. The typical vehicle that accesses the property is a passenger vehicle. Deliveries of water and coffee are made with a van-type truck.

Traffic counts were taken at the Old Route 66 and the driveway during the AM and PM peak hours to determine if the traffic generation fell within the parameters of the Site Threshold Assessment criteria established by the NMDOT. The traffic counts were taken on Thursday, March 7, 2013. The traffic volumes are within the Site Threshold Assessment levels and a traffic study is not required for this development. A copy of the completed Site Threshold Assessment



form is found in Appendix E to the report. The summary for the peak hour counts at the driveway is provided below.

	AM Peak	PM Peak
Entering	1	1
Exiting	9	7

## Environmental Evaluation

### Flood Plain

There is a designated FEMA 100 year flood plain located adjacent to the property but none of the flood plain limits is located within the property. The flood plain map that applies to this property is 124-2012 panel number 35049C100E. This flood plain information is derived from the County GIS mapping for the 2011 FEMA recognized flood plains.

### Terrain

The property is relatively flat with the exception of the grading that was undertaken to construct the house and ancillary buildings on the site. As a result the man-made cut and fill slopes have gradients in the 20-30 percent range. The natural slopes on the property range from 5-8 percent.

The drainage pattern and the fall of the land is from the southwest to the northeast with a total elevation difference across the land of 22 feet. There are no defined drainage swales located within the property. There is a stock pond to the southwest of this tract of land that captures much of the run-off that occurs up stream of this property. The owners have seen the pond fill with water on two occasions during their 21 year residence on this land.

### Vegetation

The natural vegetation consists of One Seed Juniper and the following shrubs and grasses.

#### Grasses

Blue Grama  
Galleta  
Dropseed  
Muhly

#### Forbs

Snakeweed  
Verbena  
Purple Coneflower  
Russian Thistle



Threadleaf Sagewort  
White Evening Primrose  
Narrow Leaf Yucca  
Cholla Cactus  
Datil Yucca

Three sculpted pinon trees, a variety of juniper bushes and lilac bushes have been planted around the house and are well established. Four deciduous trees have been planted at the self-serve water dispenser. There is a small garden for home use measuring approximately 30' x 30'.

### Soils

The Natural Resources Conservation Service has prepared a soil survey for this area of Santa Fe County. The soils classifications based on this survey are provided below.

603	Panky Urban Land Complex	1 - 4 Percent Slopes
604	Desario-Espanon	5-50 Percent Slopes
605	Lazarus-Manzano Complex	0-8 Percent Slopes

603—Lazarus silt loam, 0 to 2 percent slopes, flooded

### Map Unit Setting

*Landscape:* Intermontane basins  
*Elevation:* 6,200 to 7,000 feet  
*Mean annual precipitation:* 12 to 14 inches  
*Mean annual air temperature:* 49 to 51 degrees F  
*Frost-free period:* 140 to 160 days

### Setting

*Landform:* Flood plains on valley floors  
*Down-slope shape:* Linear  
*Across-slope shape:* Linear  
*Parent material:* Alluvium derived from sandstone and shale

### Properties and qualities

*Slope:* 0 to 2 percent  
*Depth to restrictive feature:* More than 80 inches  
*Drainage class:* Well drained  
*Capacity of the most limiting layer to transmit water* Moderately high  
(0.20 to 0.57 in/hr)  
*Depth to water table:* More than 80 inches  
*Frequency of flooding:* Occasional  
*Frequency of ponding:* None



*Calcium carbonate, maximum content: 3 percent*  
*Maximum salinity: Nonsaline (0.0 to 1.0 mmhos/cm)*  
*Sodium adsorption ratio, maximum: 4.0*  
*Available water capacity: High (about 11.4 inches)*

Interpretive groups

*Farmland classification: Not prime farmland*  
*Land capability classification (irrigated): 3e*  
*Land capability (nonirrigated): 4c*  
*Hydrologic Soil Group: B*  
*Ecological site: Loamy*

Typical profile

*0 to 3 inches: Silt loam*  
*3 to 14 inches: Silt loam*  
*14 to 32 inches: Silt loam*  
*32 to 53 inches: Silty clay loam*  
*53 to 102 inches: Silty clay loam*

**604—Desario-Espadon complex, 5 to 50 percent slopes**

Map Unit Setting

*Landscape: Foothills*  
*Elevation: 6,400 to 8,000 feet*  
*Mean annual precipitation: 13 to 15 inches*

*Mean annual air temperature: 48 to 51 degrees*  
*Frost-free period: 120 to 150 days*

Map Unit Composition

*Desario and similar soils: 50 percent*  
*Espadon and similar soils: 40 percent*

**Description of Desario**

Setting

*Landform: Low hills*  
*Landform position (two-dimensional): Backslope*  
*Down-slope shape: Convex*  
*Across-slope shape: Linear*  
*Parent material: Slope alluvium and/or residuum weathered from limestone*



### Properties and qualities

*Slope:* 5 to 45 percent

*Depth to restrictive feature:* 10 to 20 inches to lithic bedrock

*Drainage class:* Well drained

*Capacity of the most limiting layer to transmit water:* Very low to moderately low (0.00 to 0.06 in/hr)

*Depth to water table:* More than 80 inches

*Frequency of flooding:* None

*Frequency of ponding:* None

*Calcium carbonate, maximum content:* 15 percent

*Maximum salinity:* Nonsaline (0.0 to 2.0 mmhos/cm)

*Sodium adsorption ratio, maximum:* 4.0

*Available water capacity:* Very low (about 1.2 inches)

### Interpretive groups

*Farmland classification:* Not prime farmland

*Land capability (nonirrigated):*

*Hydrologic Soil Group:* B

*Ecological site:* Juniperus monosperma-Pinus edulis/Fallugia paradoxa/Bouteloua hirsuta-Bouteloua gracilis

### Typical profile

*0 to 1 inches:* Extremely gravelly loam

*1 to 3 inches:* Cobbly loam

*3 to 12 inches:* Very cobbly loam

*12 to 22 inches:* Bedrock

### **Description of Espadon**

#### Setting

*Landform:* Low hills, cuestras

*Landform position (two-dimensional):* Backslope

*Down-slope shape:* Linear

*Across-slope shape:* Convex

*Parent material:* Colluvium and/or residuum weathered from limestone

### Properties and qualities

*Slope:* 10 to 50 percent

*Depth to restrictive feature:* 20 to 39 inches to lithic bedrock

*Drainage class:* Well drained

*Capacity of the most limiting layer to transmit water (Ksat):* Very low to moderately low (0.00 to 0.06 in/hr)

*Depth to water table:* More than 80 inches

*Frequency of flooding:* None



*Frequency of ponding:* None

*Calcium carbonate, maximum content:* 40 percent

*Maximum salinity:* Nonsaline (0.0 to 0.5 mmhos/cm)

*Sodium adsorption ratio, maximum:* 4.0

*Available water capacity:* Very low (about 2.0 inches)

#### Interpretive groups

*Farmland classification:* Not prime farmland

*Land capability (nonirrigated):*

*Hydrologic Soil Group:* D

*Ecological site:* Pinus edulis-Juniperus monosperma/Quercus gambelii/Bouteloua gracilis

#### Typical profile

*0 to 3 inches:* Very gravelly loam

*3 to 9 inches:* Very gravelly loam

*9 to 16 inches:* Very gravelly loam

*16 to 26 inches:* Extremely gravelly loam

*26 to 36 inches:* Bedrock

**605—Lazarus-Manzano complex, 0 to 8 percent slopes, flooded**

#### Map Unit Setting

*Landscape:* Foothills

*Elevation:* 6,400 to 7,300 feet

*Mean annual precipitation:* 12 to 14 inches

*Mean annual air temperature:* 49 to 51 degrees F

*Frost-free period:* 140 to 160 days

#### Map Unit Composition

*Lazarus and similar soils:* 50 percent

*Manzano and similar soils:* 40 percent

#### **Description of Lazarus**

##### Setting

*Landform:* Flood plains on valley floors

*Down-slope shape:* Linear

*Across-slope shape:* Linear

*Parent material:* Alluvium derived from limestone, sandstone, and shale

##### Properties and qualities

*Slope:* 0 to 3 percent



*Depth to restrictive feature:* More than 80 inches  
*Drainage class:* Well drained  
*Capacity of the most limiting layer to transmit water (Ksat):* Moderately high (0.20 to 0.57 in/hr)  
*Depth to water table:* More than 80 inches  
*Frequency of flooding:* Occasional  
*Frequency of ponding:* None  
*Calcium carbonate, maximum content:* 3 percent  
*Maximum salinity:* Nonsaline (0.5 to 1.0 mmhos/cm)  
*Sodium adsorption ratio, maximum:* 2.0  
*Available water capacity:* High (about 11.0 inches)

#### Interpretive groups

*Farmland classification:* Not prime farmland  
*Land capability (nonirrigated):* 6c  
*Hydrologic Soil Group:* C  
*Ecological site:* Loamy (R070CY109NM), Loamy (R070CY109NM)

#### Typical profile

*0 to 3 inches:* Silt loam  
*3 to 8 inches:* Silty clay loam  
*8 to 17 inches:* Silty clay loam  
*17 to 27 inches:* Silty clay loam  
*27 to 53 inches:* Silty clay loam  
*53 to 82 inches:* Silt loam

#### **Description of Manzano**

#### Setting

*Landform:* Inset fans on valley sides  
*Down-slope shape:* Concave  
*Across-slope shape:* Linear  
*Parent material:* Slope alluvium derived from limestone, sandstone, and shale

#### Properties and qualities

*Slope:* 4 to 8 percent  
*Depth to restrictive feature:* More than 80 inches  
*Drainage class:* Well drained  
*Capacity of the most limiting layer to transmit water (Ksat):* Moderately high (0.20 to 0.57 in/hr)  
*Depth to water table:* More than 80 inches  
*Frequency of flooding:* Frequent  
*Frequency of ponding:* None  
*Calcium carbonate, maximum content:* 10 percent  
*Maximum salinity:* Nonsaline (0.0 to 0.5 mmhos/cm)



*Sodium adsorption ratio, maximum:* 1.0  
*Available water capacity:* High (about 9.3 inches)  
**Interpretive groups**  
*Farmland classification:* Not prime farmland  
*Land capability (nonirrigated):* 6c  
*Hydrologic Soil Group:* C  
*Ecological site:* Bottomland (R070CY103NM)

#### Typical profile

*0 to 2 inches:* Silt loam  
*2 to 8 inches:* Gravelly loam  
*8 to 19 inches:* Gravelly loam  
*19 to 43 inches:* Gravelly loam  
*43 to 62 inches:* Silty clay loam  
*62 to 84 inches:* Silty clay loam

The soils are suitable for low rise commercial and residential development. Soil compaction and subsidence have not been an issue with the previously constructed buildings on the site.

#### **Project Description**

The Ricters are requesting small scale commercial approval within the traditional community of Edgewood. They are currently operating a water company that bottles water withdrawn from a well on their property and delivers the water to residences and businesses in the community of Edgewood, and Moriarty as well as the entire east mountain area, Albuquerque and the west side. The Ricters also deliver coffee supplies to commercial businesses in the community of Edgewood and Moriarty as well as the entire east mountain area, Albuquerque and the west side.

There is a self-service water dispenser that is located at the entry to the property. This is open 24 hours a day. The normal business hours for the office are 8:00 a.m. to 5:00 p.m. from Monday through Friday. Typically there are very few clients that come to the office since water is delivered to the homes and businesses. In addition to the Ricters, there are two part time employees that work on a limited basis when the bottles are being filled in advance of the delivery and during some business hours.

There is a larger bottled water delivery truck that distributes the water and coffee to clients in the Edgewood area and Moriarty as well as the entire east mountain area, Albuquerque and the west side. This van operates on a semi-daily basis during the week since deliveries are not made every day of the week. On the average the van makes deliveries 11 days out of the month. The van leaves in the morning and does not return until the afternoon when the deliveries are completed. In terms of trip generation there is one exiting trip and one entering trip per day by the van delivery truck. The van delivery truck is parked adjacent to the building where the water is bottled.



The Ricters also have their residence on the property where they have lived for 21 years. There is a job trailer adjacent to the house that currently serves as the office. As part of phase 2 of the project an addition of approximately 1,200 square feet will be attached to the house to serve as the permanent location for the office. The job trailer would then be removed from the property.

### Use List

The Ricters would like the opportunity to sell or use the property for other commercial uses although that is not a consideration at this time. The following list of uses is consistent with the uses in Small Scale Districts per Article III, Section 4.3.2 of the Land Development Code.

- ▶ Bottling and sales of water and distribution of goods to commercial establishments
- ▶ Neighborhood compatible retail establishments
- ▶ Personal service establishments
- ▶ Office and studios, medical offices and/or clinics
- ▶ Private day care
- ▶ Single family dwelling
- ▶ Automotive service stations and repair garages not industrial in nature
- ▶ Galleries
- ▶ Private clubs and lodges
- ▶ Veterinary establishments

This business operates under the NMED regulations and federal guidelines. The operation has been permitted by NMED as a water supply system shown in the documentation on Appendix F. Water quality testing must be submitted on a weekly basis to a state certified lab in Albuquerque and the plant is inspected by NMED on an annual basis as required by NMED food regulations. A water test is also submitted annually to a certified lab in Washington State to meet the federal requirements for a bottler.

### Signs and Lighting

#### Sign

Windmill Water previously had a sign when they operated under a home occupation and they wish to erect the sign again with the approval of the development request. The sign measures 3



feet by 4 feet and a photo of this sign is included in Appendix G. The sign would be erected within the easement located at Old Route 66.

### Lighting

There are currently two pole mounted signs on the property. One is located by the employee and business parking area at the south end of the tract and the other is located in the vicinity of the self-service dispenser. Neither of these lights have cut-off shields. A shield will be manufactured and placed on the fixture to direct light downward.

There are also three semi-exterior lights mounted under covered porches on the house, the bottling building and the adjoining garage. These fixtures consist of flood lights located under overhangs and are directed to the ground.

### **Solid Waste**

The Ricters make every effort to recycle as much material as possible associated with the business and their domestic use. The bottles that are used are washed and reused eliminating the waste often associated with packaged drinking water purchased in stores. The company providing the recycle service is East Mountain Recycle. For the private solid waste the Ricters use the transfer station in Edgewood.

### **Water Budget And Water Conservation**

#### Residential

The residential use consists of a three bedroom, four bathroom house with 2,200 gross square feet. The house is occupied by the two owners of the business. There is a separate domestic well that serves the house and landscape. The well does not have a meter and actual water use cannot be documented.

Landscape consists of three mature pinon trees, lilac bushes, junipers and four recently planted deciduous trees located to the south of the water dispenser. There is also a small garden at the rear of the property that measures approximately 30' x 30'. Water saving toilets of 1.6 gallons per flush have been installed in the bathrooms in the residence.

There is not a bathroom in the job trailer or the bottling plan. One bathroom in the house is designated as an employee restroom. The Ricters rarely see clients at the house since water is delivered or dispersed to the public. The employees are part time and water use attributed to the two part time employees is minimal.

Rather than undertake a detailed evaluation of each user and fixture on the site, it is assumed that the residence uses .25 acre feet per year.

The domestic well is permitted for 3.0 acre feet per year by the Office of the State Engineer. The water use therefore is substantially less than the water availability.



### Commercial

The Office of the State Engineer has permitted the commercial well for 1.78 acre feet per year based on beneficial use. There is a history in the OSE files that shows that the seller, Sanford Basset, owned commercial water rights and these rights were transferred to the Ricters when they bought the property. The amount of water that was transferred is shown on the OSE records as "unknown". The commercial well is permitted up to 3.0 acre feet per year as proven up by the beneficial use of water. There still remains 1.22 acre feet of water that can be used by the business.

There is a meter on the commercial well and the Ricters provide quarterly readings to the OSE. The information regarding the domestic well and commercial well is found in Appendix H.

### **Phasing and Future Improvements**

A second phase of development is proposed for the site. The second phase includes a 1200 square foot addition for a future office that would be attached to the existing house. A final development plan would be submitted to the County for the second phase of the improvements on the property. A rain water detention pond is shown on the master plan and preliminary development plan. The passive water harvest pond would be constructed in conjunction with phase II of the project. The existing buildings do not require water harvesting since they are pre-existing structures.

### **Commercial Use Requirements for Rezoning Outside of a Qualifying Intersection**

There are three criteria that an applicant must satisfy to rezoning a property to a commercial use within a traditional community. There is also an option to amend the community general plan, which is not proposed in this case. The response to the three criteria for rezoning is provided below.

1. Commercial or light industrial zoning may be approved in the traditional community where no qualifying intersection appears to be present provided:
  - (a) Similar uses have established as non-conforming on contiguous and adjacent locations in the community:

*Adjoining the property to the east, there is an existing mining use. This property has operated as legal non-conforming use for the last 20 years. The mining operations included the use of blasting to extract the mineral material. It appears that the current operator has or will close the mining operation at this location. That will not prevent a new operator from continuing the mineral extraction at this site. The aerial photo attached as Appendix – clearly describes the mining operation in located to the east of this rezoning request. To date no plan has been submitted to reclaim this area and it is a logical assumption that mining will continue to occur on this property, as is allowed by the County Code.*



- (b) The rezoning to be approved is similar in type and scale to those uses suggested for neighborhood or small scale districts by Article III, Section 4.3.2

*The requested zoning is similar to the permitted uses as listed in Article III, Section 4.3.2. The most similar uses are listed below:*

- *Retail establishments, including supermarkets, drugstores, bakeries, meat markets, liquor stores, hardware, paint and wall paper, camera shops, florist, gift shops, stationery shops, bookstores, apparel shops, shoe stores, variety stores, jewelry stores, pet shops, toy stores, movie video stores, music or record stores and household goods stores.*

*In addition the Use List described in this report limits the uses permitted under Article III, Section 4.3.2 to uses that are more compatible with the location of this property and the existing commercial uses in the area.*

- (c) The Rezoning is compatible with surrounding uses, or.

*The rezoning request is compatible with surrounding uses, which are a mix of residential and commercial. The commercial uses that surround this property are:*

- *Mining operation, located east of the subject site and south of Old Route 66*

*The following uses are located within one-half mile of the site and are located on the north side of Old Route 66.*

- *Veterinary clinic,*
- *Equipment rental*
- *Unnamed commercial use*
- *Self-storage units*

- (d) It is the consensus of the local community to allow the proposed re-zoning and use.

*A significant number of residents within the community and within the Town of Edgewood are customers of Windmill Water. The owner of Windmill water will submit*



*letters of support prior to the CDRC hearing. While water quality in the Edgewood area satisfies federal and state standards the residents of the community do not like the taste of the water either in the private wells or in the three community water systems.*

One statement from a well-known user is provided below.

"Providing excellent customer service is the #1 priority at my company, so I appreciate other businesses that do the same. I rely on Windmill Water because they deliver great tasting water to all my offices and their customer service is second-to-none."  
Janice Lucero, MVD Express



## APPENDICES



**Appendix A**

**Town of Edgewood  
Business Registration**

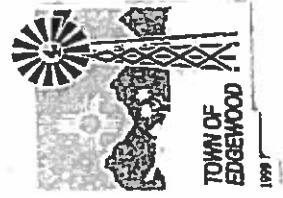


# *Town of Edgewood Business Registration*

WINDMILL WATER, INC.

Is hereby authorized to conduct business within  
the Town of Edgewood, New Mexico,  
March 7, 2011 thru December 31, 2011

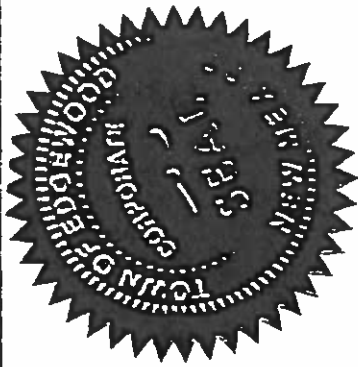
Done this 7th Day of March 2011



*Estefanie B. Muller*  
Estefanie Muller, Clerk-Treasurer

Certificate #01445





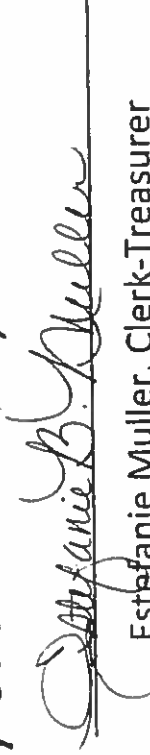
# *Town of Edgewood Business Registration Windmill Water*

Is hereby authorized to conduct business within

the Town of Edgewood, New Mexico,

January 1, 2013 thru December 31, 2013

Done this 27<sup>th</sup> Day of December, 2012

  
Estefanie Muller, Clerk-Treasurer

Certificate #01445



# **Appendix C**

## **Property Relative to Traditional Community**









# Santa Fe County Internet Mapping

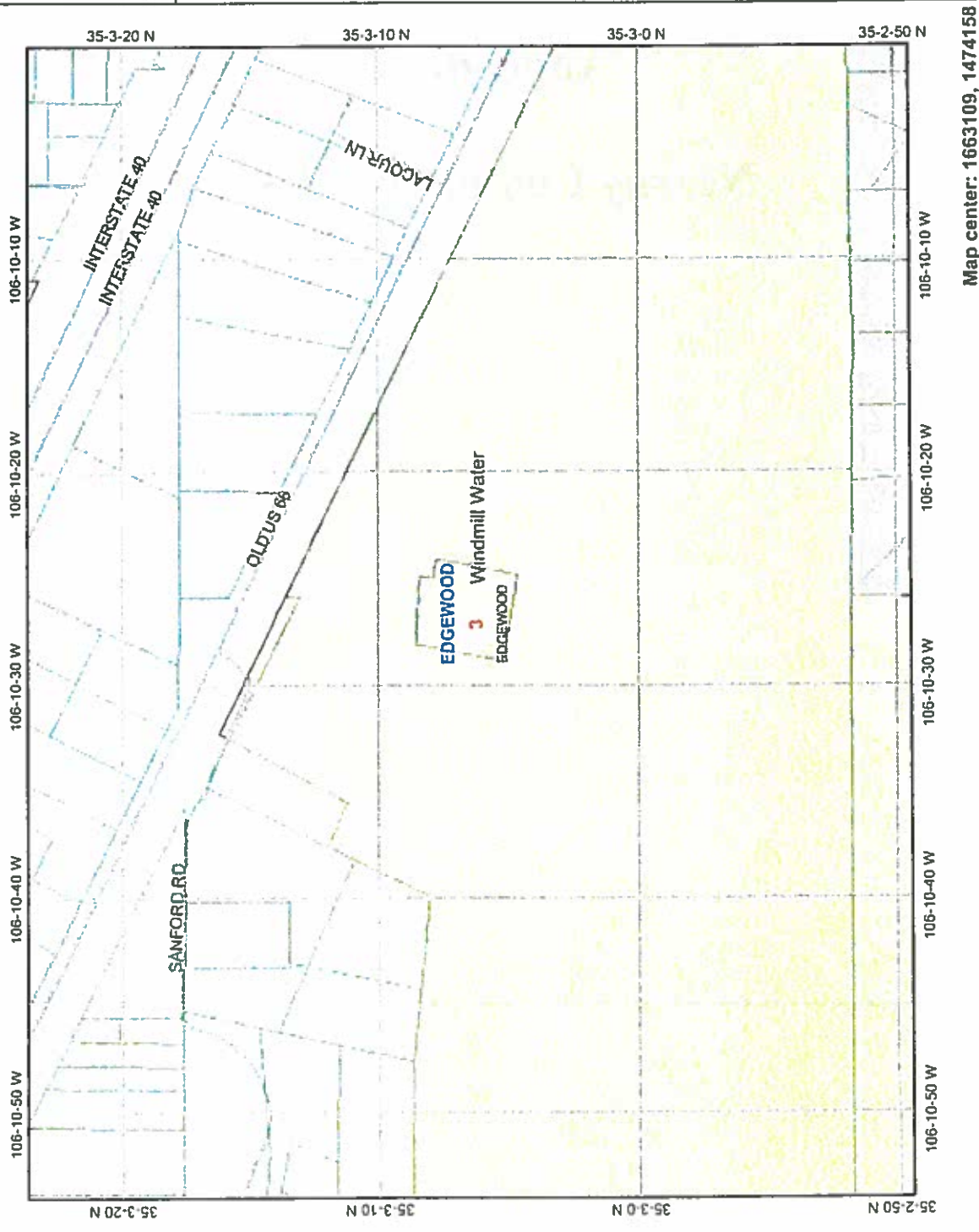


**Legend**

- Voting Districts
- Parcels
- Santa Fe County Boundary
- Roads
- Incorporated Areas
- Traditional Community Areas

0 1 23 39

Scale: 1:7,368



USERS OF THESE DATASETS MUST BE AWARE THAT THESE DATA ARE INTENDED FOR REFERENCE ONLY. SANTA FE COUNTY ASSUMES NO LIABILITY FOR ERRORS ASSOCIATED WITH THE USE OF THESE DATA. USERS ARE SOLELY RESPONSIBLE FOR CONFIRMING DATA ACCURACY.

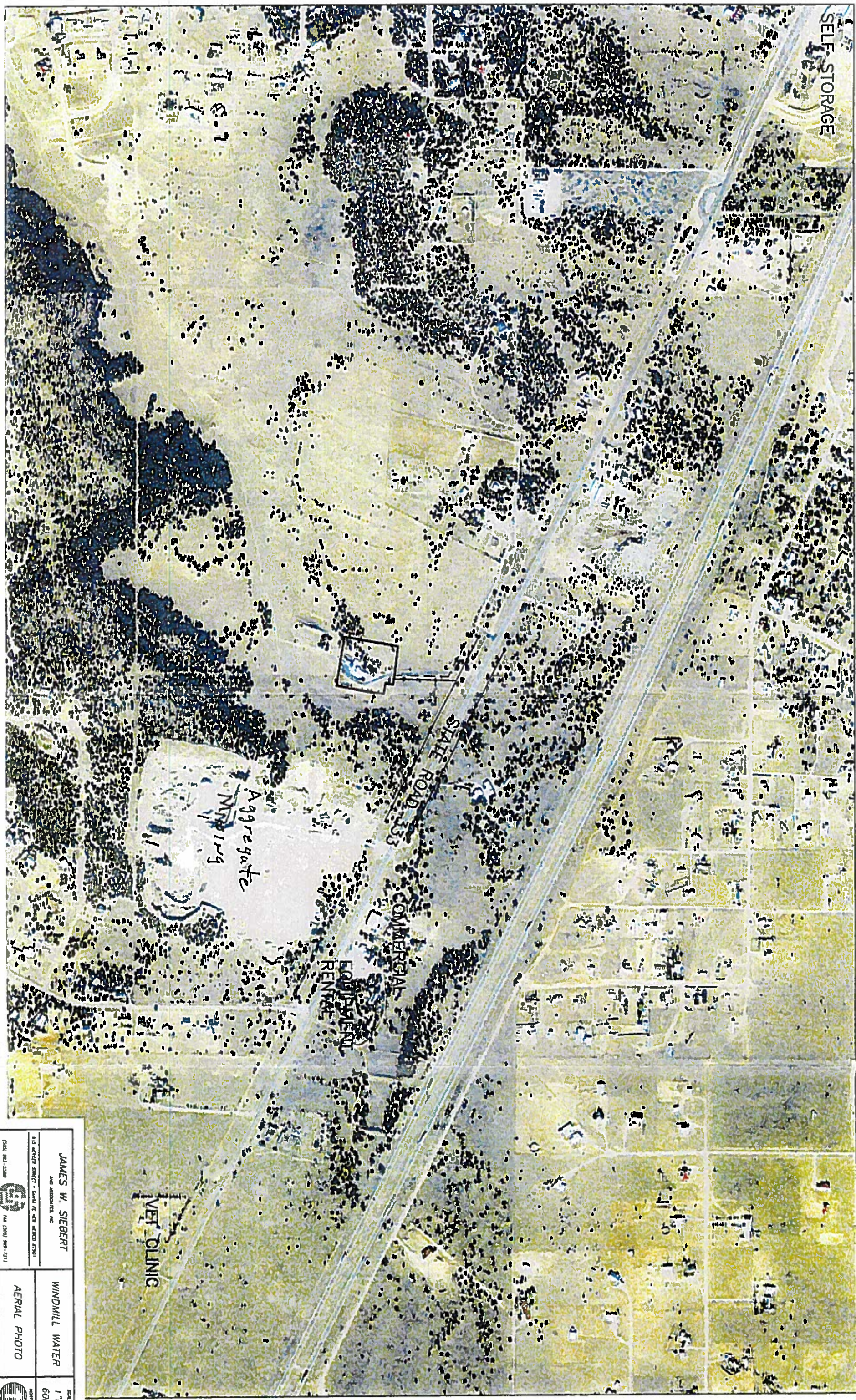
NBD-31





# **Appendix D**

## **Nearby Commercial Uses**





<b>JAMES W. SIEBERT</b> AND ASSOCIATES, INC.	
110 SERVICE STREET • SUITE 17 • NEW ALBANY, IN 46053	
(317) 943-3344	
	
(317) 943-3344	
WINDMILL WATER	1" = 600'
AERIAL PHOTO	

NBD-33







**Appendix F**

**NMED Certification  
&  
Water Quality Testing**

NBD-34





0119

State of New Mexico  
**ENVIRONMENT DEPARTMENT**  
Drinking Water Bureau - Albuquerque Area Office  
4131 Montgomery Boulevard, Suite 4123  
Albuquerque, New Mexico 87109  
(505) 841-9450  
(505) 884-9254 fax

Rec'd cert 12-23-99



GARY E. JOHNSON  
GOVERNOR

PETER MAGGIORE  
SECRETARY

December 21, 1999  
Sent Certified Mail With Return Receipt Requested (Z 326 892 029)

Windmill Water, Inc.  
Water Supply System (WSS) # 007-26  
c/o Leon Richter  
P.O. Box 2174  
Edgewood, NM 87015

1-800-

Dear Mr. Richter:

Enclosed is a copy of the Sanitary Survey for the Windmill Water, Inc. Water System conducted on August 10, 1999, by Wally Closner of the NMED Drinking Water Bureau. Mr. Richter accompanied Mr. Closner during the survey. The purpose of the survey is to evaluate the adequacy of water source, facilities, equipment, operation, maintenance and management practices for producing and distributing safe drinking water.

Windmill, Inc. is currently a bottled water processor and regulated under the New Mexico Environment Department's Food Service and Food Processing Regulation, 7 NMAC 6.1, dated October 1995. The Windmill water system, located in Edgewood, NM, consists of 1 connection. The system provides bottled water to an average daily population of approximately 36 people (based on serving 500 households every two weeks). The system operates all year. According to the New Mexico Environment Department (NMED) Drinking Water Regulations, Title 20, Chapter 7, Part 1, dated January 1, 1995, a water supply system is considered to be a community water system if it serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

1-800-887-6063

The water system consists of 1 well, 1 raw water storage tank, 2 pressure tanks, 1 meter, 1 sedimentation filter, 1 softener and salt tank, 1 reverse osmosis (R.O.) unit with pretreatment filter, 2 R.O. storage tanks, and 1 ozone unit.

NBD-35



# Certificate of Compliance

This is to certify that

**EDGE ANALYTICAL, Inc.,**

An Accredited Drinking Water Laboratory,

Certification number 046, has completed the analysis of

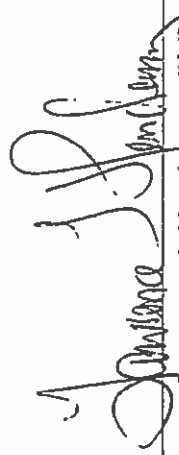
**WINDMILL WATER, INC**

“Windmill Water”

on January 18, 2013, according to the FDA testing requirements for bottled drinking water.

All parameters were found to be in compliance with 21 CFR 165 and 21 CFR 129  
published limits for bottled drinking water.

**EDGE**  
ANALYTICAL  
LABORATORIES

  
Lawrence J. Henderson, PhD  
Director of Laboratories







# MASTER PLAN & PRELIMINARY DEVELOPMENT PLAN

(505) 983-5588  
(505) 989-7313 FAX



COVER SHEET \_\_\_\_\_ P-1  
TOPOGRAPHY, SLOPE & SOILS MAP \_\_\_\_\_ P-2  
EXISTING CONDITIONS \_\_\_\_\_ P-3  
MASTER PLAN \_\_\_\_\_ P-4  
BUILDING ELEVATIONS \_\_\_\_\_ P-5

## DATE \_\_\_\_\_

DATE \_\_\_\_\_

TO CREATE A COMMERCIAL REZONING




 $1'' = 1,000'$ 

EXHIBIT

2

CASE # CDRC-MP-

NRD-37

JAMES W. SIEBERT AND ASSOCIATES, INC. 815 MERCER STREET - SUITE 17 NEW ARCADE BLDG. NEW YORK, N.Y. 10014 TEL (212) 688-1212	WINDMILL WATER		SCALE AS SHOWN DRAWN BY: H.F.		DATE MARCH 2013	NORTH 
	COVER SHEET	PROJECT NO. 00/00/00	REVISION 1.00/00/00	CHECKED BY JWS	FILE NAME: 00/00/00 1.00/00/00	
					P-1	

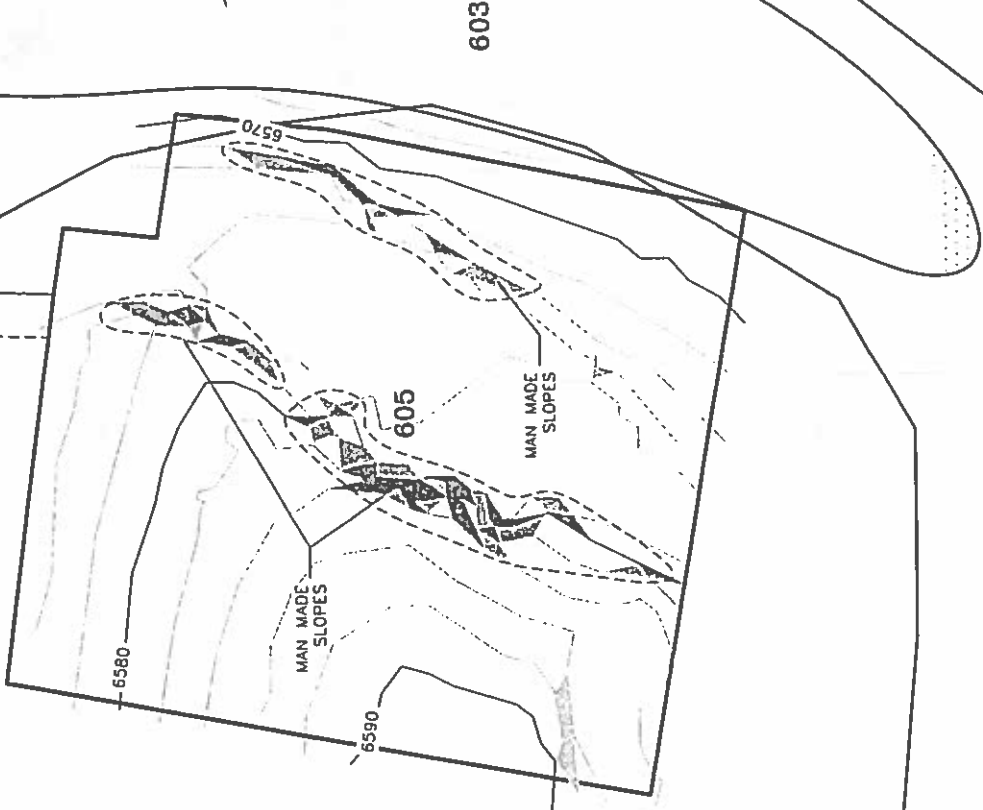


STATE ROAD 333  
(OLD ROUTE 66)

200' R.O.W.

60' ACCESS & UTILITY  
EASEMENT  
241/021


25' ACCESS &  
UTILITY EASEMENT  
241/021



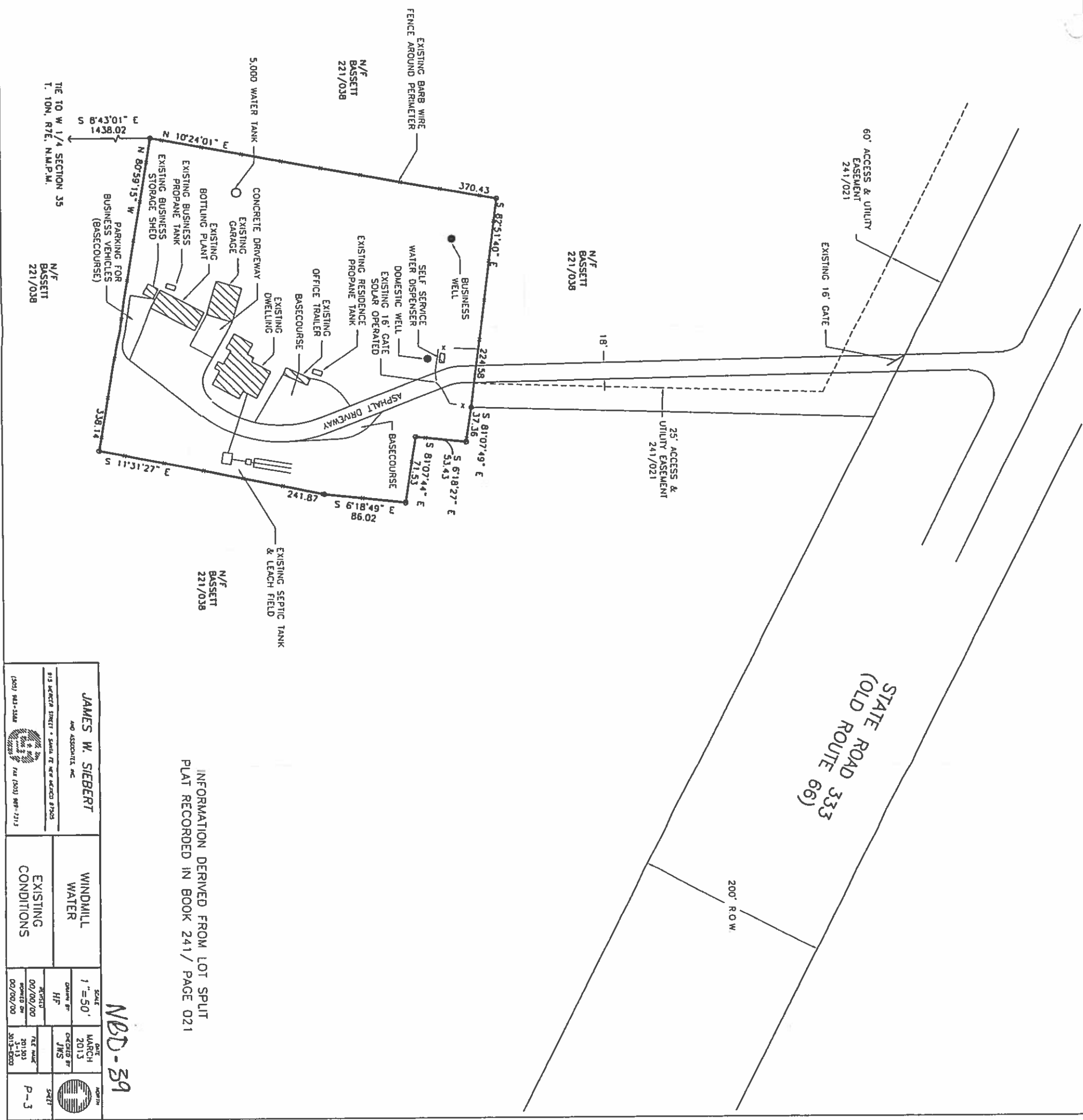
**SOILS INFORMATION:**  
603: LAZARUS SILT LOAM, 0 TO 2 PERCENT SLOPES, FLOODED  
605: LAZARUS-MANZANO COMPLEX, 0 TO 8 PERCENT SLOPES, FLOODED  
SOILS DATA DERIVED FROM U.S.D.A. SOIL CONSERVATION SERVICE MAP

**SLOPE CATEGORIES:**  
0% - 20%  
20% - 30%  
30% +

NBD-38

JAMES W. SIEBERT AND ASSOCIATES, INC.  815 WILKINSON STREET • SANTA FE, NEW MEXICO 87505 (505) 963-3588	WINDMILL WATER		SCALE 1" = 50'	DATE MARCH 2013	NORTH 	SHEET P-2
	TOPOGRAPHY, SLOPE & SOILS MAP		DRAWN BY HF	CHECKED BY JWS		
			PROJECT 00/00/00	FILE NAME 201003 3-13	WORKED ON 00/00/00 1303-TOPO	





INFORMATION DERIVED FROM LOT SPLIT  
PLAT RECORDED IN BOOK 241/ PAGE 021

NBD-39

JAMES W. SIEBERT AND ASSOCIATES, INC.		WINDMILL WATER	
915 SWEET STREET • SUITE 100 • WICHITA, KS 67203 (316) 261-1234 FAX (316) 261-1213		EXISTING CONDITIONS	
SCALE 1"=50'		DATE MARCH 2013	
DRAWN BY HP		CHECKED BY JMS	
REVISIONS 00/00/00 00/00/00		DATE 00/00/00	
SHEET P-3		SHEET P-3	



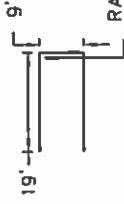


R7-8-12



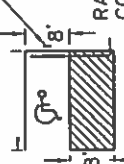
R7-8a-18

PARKING DETAIL:

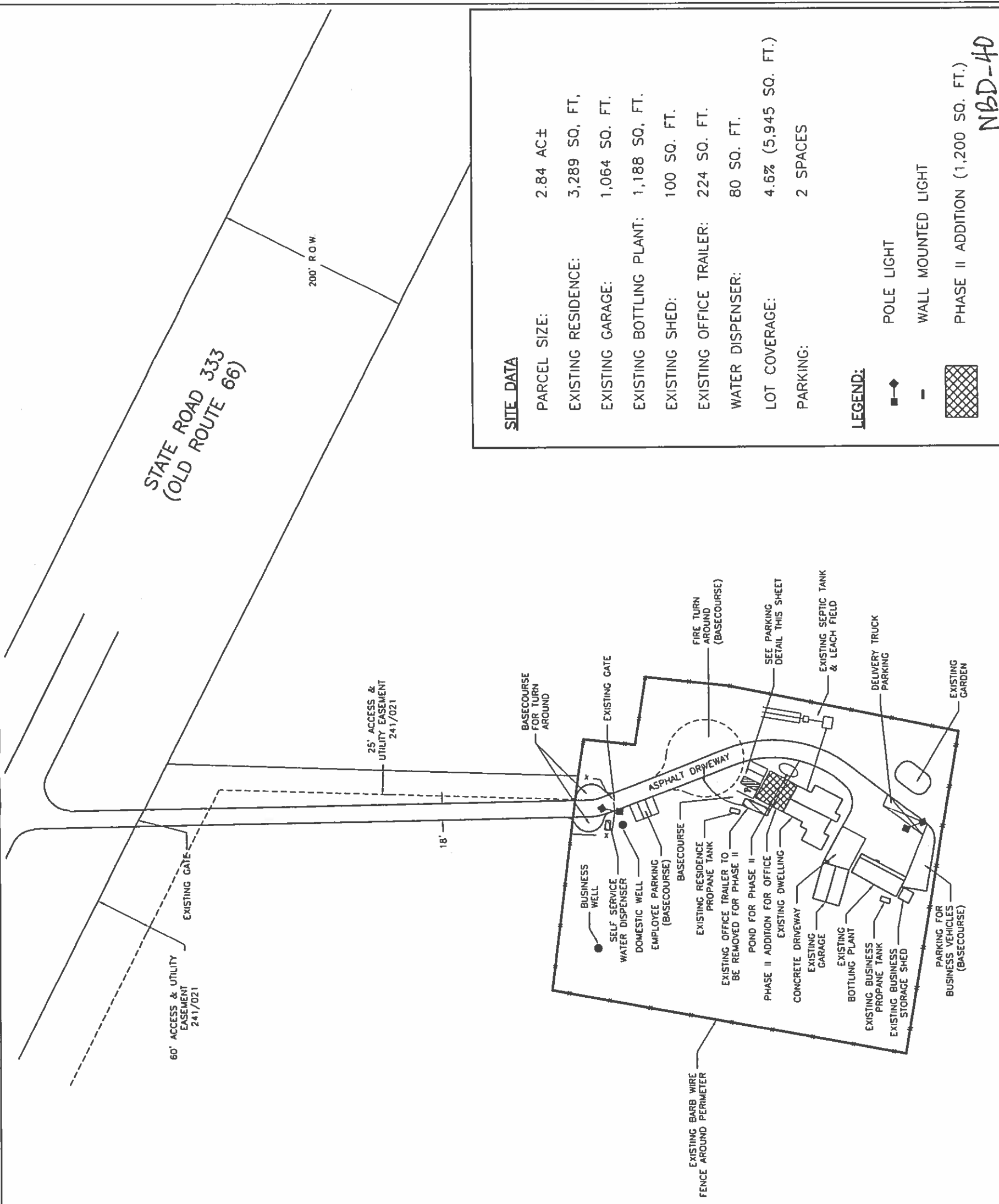


TYPICAL PARKING SPACE

HANDICAP SIGNS MOUNTED ON POLE  
(SEE DETAILS THIS SHEET)



TYPICAL HANDICAP PARKING SPACE





SITE DATA

PARCEL SIZE:	2.84 AC±
EXISTING RESIDENCE:	3,289 SQ. FT.
EXISTING GARAGE:	1,064 SQ. FT.
EXISTING BOTTLING PLANT:	1,188 SQ. FT.
EXISTING SHED:	100 SQ. FT.
EXISTING OFFICE TRAILER:	224 SQ. FT.
WATER DISPENSER:	80 SQ. FT.
LOT COVERAGE:	4.6% (5,945 SQ. FT.)
PARKING:	2 SPACES

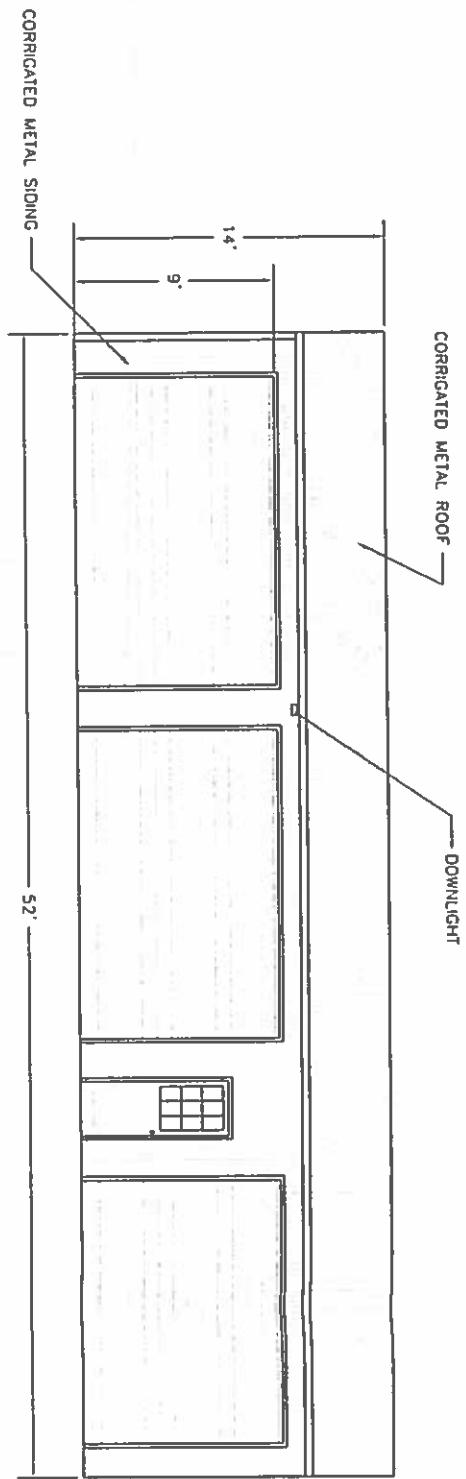
LEGEND:

- POLE LIGHT
- WALL MOUNTED LIGHT
- PHASE II ADDITION (1,200 SQ. FT.)

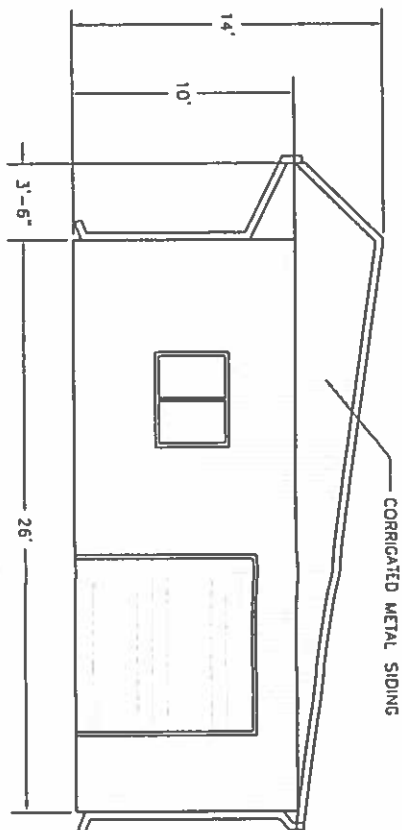
NBD-40

JAMES W. SIEBERT AND ASSOCIATES, INC.	WINDMILL WATER	SCALE 1"=50'	DATE MARCH 2013	CREATED BY JWS	
913 MERCER STREET • SUITE 107 NEW BRUNSWICK 07102  (908) 881-5586 FAX (908) 881-7212	MASTER PLAN	00/00/00	FILE NUMBER 3013	SHEET P-4	
		NOTED ON 05/07/13	3013-000		

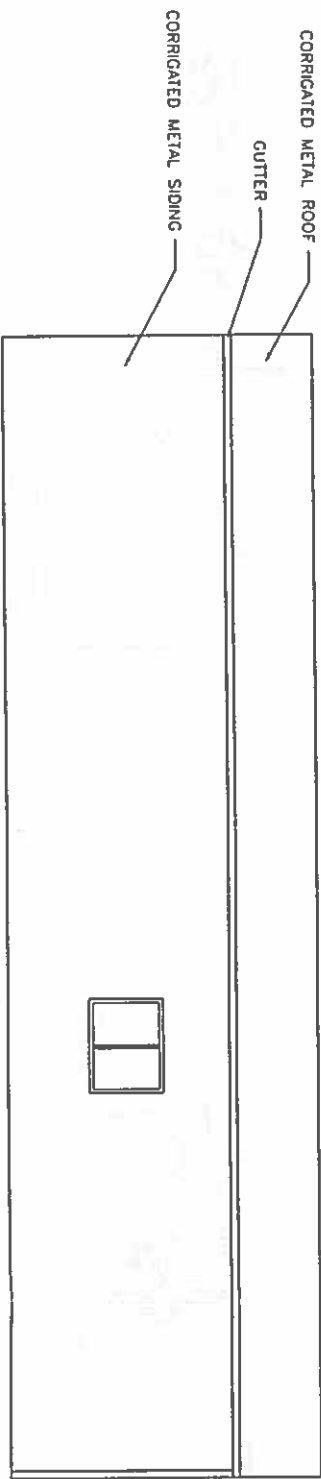




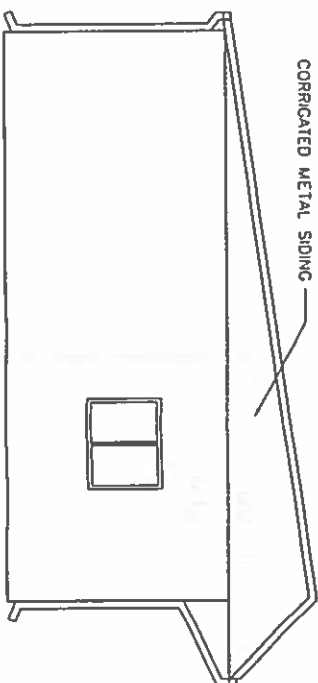
WEST ELEVATION (FROM DRIVEWAY)  
1/4"=1'-0"



NORTH ELEVATION (FROM HOUSE)  
1/4"=1'-0"



EAST ELEVATION (REAR)  
1/4"=1'-0"



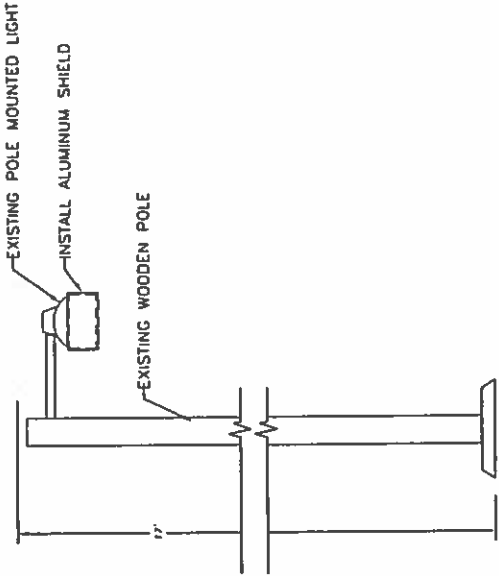
SOUTH ELEVATION (SIDE)  
1/4"=1'-0"

JAMES W. SIEBERT AND ASSOCIATES, INC.		WINDMILL WATER		SCALE 1"=10'		DATE MARCH 2013		NORTH
813 WILKINSON STREET • SANTA FE, NM 87505		BOTTLING PLANT ELEVATIONS		HP		CHECKED BY JWS		
<div>2013-03-13 2013-03-13 2013-03-13 2013-03-13 2013-03-13</div> <div>2013-03-13 2013-03-13 2013-03-13 2013-03-13 2013-03-13</div>				REPORTED BY 00/00/00 00/00/00 00/00/00 00/00/00 00/00/00		FILE NAME 201303 201303 201303 201303 201303		P-5
(2003) P&E-15468						2013-BLDG		

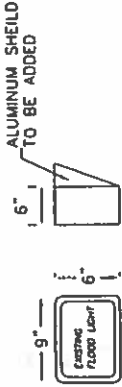
NBD-41



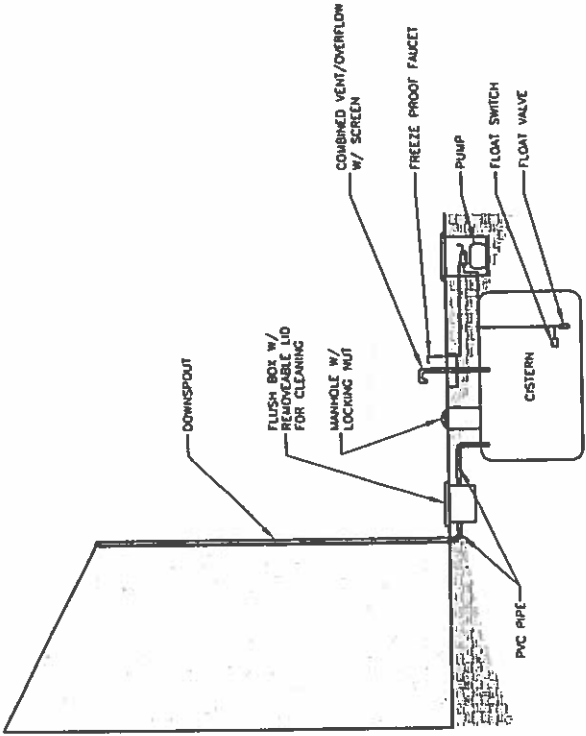
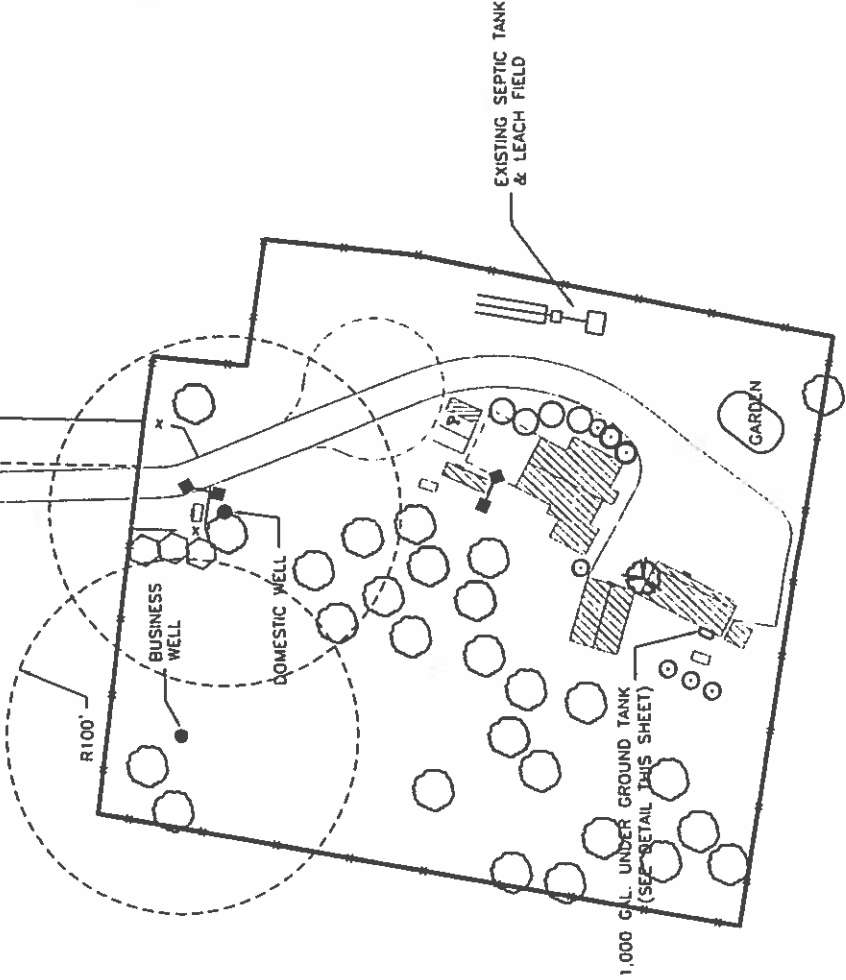
POLE LIGHT DETAIL  
NOT TO SCALE



WALL LIGHT DETAIL  
NOT TO SCALE



STATE ROAD 333  
(OLD ROUTE 66)



PLANT LEGEND-EXISTING VEGETATION

KEY	QUANTITY	SIZE		COMMON NAME	BOTANICAL NAME
		HEIGHT	SPREAD		
TREES & SHRUBS					
○	20	15'	15-20'	ONE SEED JUNIPER	JUNIPERUS MONOSPERMA
○	3	20'	15'	PHINON PINE	PINUS EDULIS
⊗	1	30'	30'	SIBERIAN ELM	ULMUS PUMILA
○	4	8'	8'	LILAC	SYRNA VULGARIS
○	2	6'	12	CHINESE JUNIPER	JUNIPERUS CHINENSIS
○	3	40'	40'	LOUBARDY POPLAR	POPULUS MORA

NOTE: ALL LANDSCAPING IS EXISTING AND WILL NOT BE ALTERED

LEGEND:

- ◆ LIGHT POLE
- WALL MOUNTED LIGHT

NBD-42

**JAMES W. SIEBERT**  
AND ASSOCIATES, INC.

915 WILSON STREET • SANTA FE, NEW MEXICO 87505  
(505) 843-3348

20  
Years  
in  
Business

1993  
AIA  
Certified

915 WILSON STREET • SANTA FE, NEW MEXICO 87505  
(505) 843-3348

FAX (505) 849-7311

DATE: APRIL 2013  
DRAWN BY: JWS  
CHECKED BY: JWS

SCALE: 1"=50'  
GRAPHIC: HF  
REVISION: 00/00/00  
WORKED ON: 06/04/13

DATE: APRIL 2013  
DRAWN BY: JWS  
CHECKED BY: JWS

SCALE: 1"=50'  
GRAPHIC: HF  
REVISION: 00/00/00  
WORKED ON: 06/04/13

WINDMILL WATER

LANDSCAPE PLAN

PROJECT: P-6

DATE: APRIL 2013

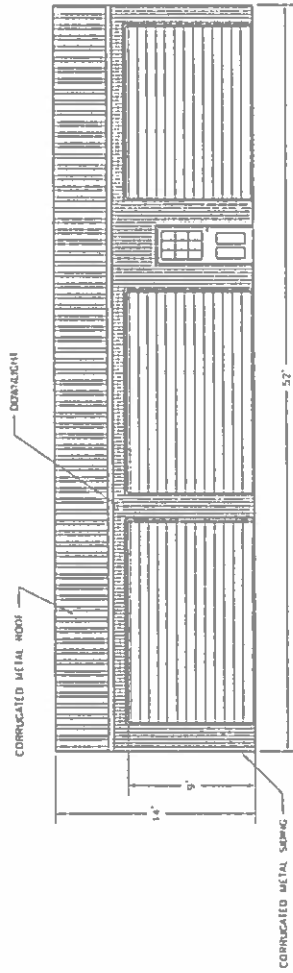
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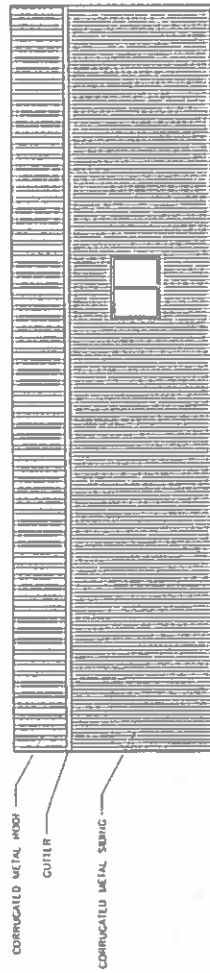
REVISION: 00/00/00

WORKED ON: 06/04/13

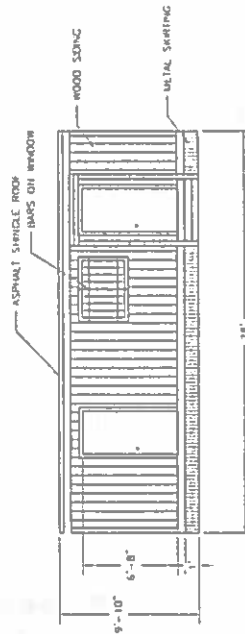




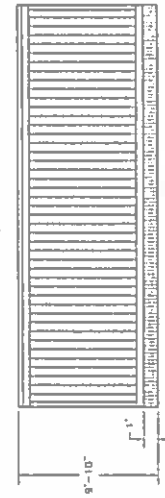
WEST ELEVATION (FROM DRIVEWAY)  
1/4"=1'-0"



EAST ELEVATION (REAR)  
1/4"=1'-0"

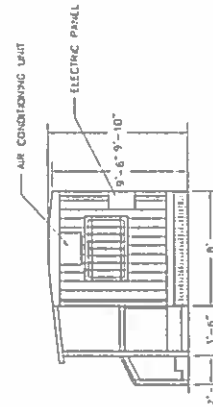


EAST ELEVATION (FRONT)  
1/4"=1'-0"

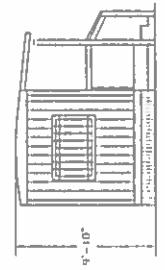


WEST ELEVATION (BACK)  
1/4"=1'-0"

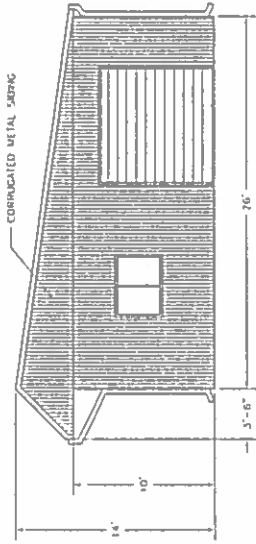
BOTTLING PLANT



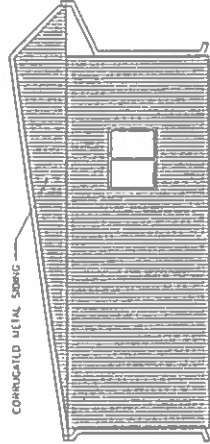
NORTH ELEVATION (SIDE)  
1/4"=1'-0"



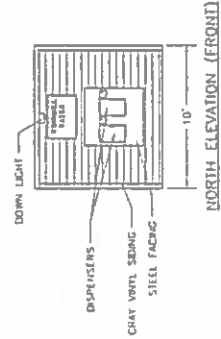
SOUTH ELEVATION (SIDE)  
1/4"=1'-0"



NORTH ELEVATION (FROM HOUSE)  
1/4"=1'-0"



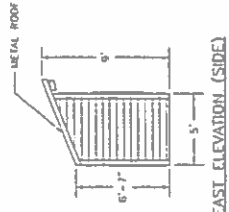
SOUTH ELEVATION (SIDE)  
1/4"=1'-0"



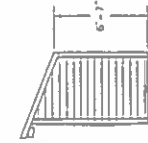
NORTH ELEVATION (FRONT)  
1/4"=1'-0"



SOUTH ELEVATION (BACK)  
1/4"=1'-0"



EAST ELEVATION (SIDE)  
1/4"=1'-0"



WEST ELEVATION (SIDE)  
1/4"=1'-0"

SELF SERVE WATER DISPENSER

<p><b>JAMES W. SIEBERT</b> ARCHITECTS, INC.</p> <p>2110 W. 10TH AVE. SUITE 100 DENVER, CO 80202 TEL: 303.733.1111 FAX: 303.733.1112</p>	<p><b>WINDMILL WATER</b> BUILDING ELEVATIONS</p>	<p>DATE: MARCH 2013</p>	<p>SCALE: 1"=10'</p>	<p>PROJECT: WINDMILL WATER</p>	<p>CLIENT: WINDMILL WATER</p>	<p>ARCHITECT: JAMES W. SIEBERT</p>	<p>DATE: MARCH 2013</p>	<p>SCALE: 1"=10'</p>	<p>PROJECT: WINDMILL WATER</p>	<p>CLIENT: WINDMILL WATER</p>	<p>ARCHITECT: JAMES W. SIEBERT</p>
		<p>DATE: MARCH 2013</p>	<p>SCALE: 1"=10'</p>	<p>PROJECT: WINDMILL WATER</p>	<p>CLIENT: WINDMILL WATER</p>	<p>ARCHITECT: JAMES W. SIEBERT</p>	<p>DATE: MARCH 2013</p>	<p>SCALE: 1"=10'</p>	<p>PROJECT: WINDMILL WATER</p>	<p>CLIENT: WINDMILL WATER</p>	<p>ARCHITECT: JAMES W. SIEBERT</p>

NBD-43



- b. A non-residential use district may be established within a traditional community at a qualifying intersection or at an area which is pursuant to the criteria set forth in Sub-section 4.2.2.
- c. Spacing Between Districts. Intersections which qualify for a commercial or industrial non-residential use district are established either by the proximity of established or potential districts as follows:
- 1) the exterior boundary of a proposed major center or community center commercial or industrial non-residential district, or parcel proposed for zoning or rezoning near the boundary of a proposed or established district, must be one (1) mile from the exterior boundary of another established or proposed district or parcel proposed for zoning in such district; and
  - 2) The exterior boundary of a proposed local or village center or neighborhood or small center commercial or industrial non-residential district or parcel proposed for zoning or rezoning near the boundary of a proposed or established district, must be one-half (1/2) mile from the exterior boundary of any other type established or proposed district, or parcel proposed for zoning in such district.
  - 3) Spacing between districts as described above is intended to assure the integrity of commercial or industrial use areas, residential neighborhoods, and highways. Uses which may locate between the districts are residential, large scale residential, community facilities, or large scale master planned development.
- d. Large Scale Mixed Use Development
- 1) Master Plan Required. Proposed developments which are planned for a mix of residential, large scale residential, and/or non-residential uses and large scale developments or subdivisions which may be developed in phases shall present a master plan for development to the County pursuant to Article V, Sections 5.1 and 5.2 of the Code.
  - 2) Location Criteria. Proposed mixed use developments are allowed to locate anywhere in the County, except that the location of any specific commercial or industrial non-residential use area designated by such proposals shall be subject to the purposes and intent of Subsection 4.2.3. and 4.1.
  - 3) Uses. See Sub-section 4. 3., Guidelines for Permitted Uses and Structures, and Uses Not Listed.
  - 4) Design Standards and Review Criteria: Refer to Section 4.4.
  - 5) Review Requirements: Section 4.5, establishes the applicable reviews.

History. 1980 Comp. 1980-6. Sections 4.2.1 Types of Districts, was amended by County Ordinance 1990-11, adding the term Regional to Sub-section 1; retitling neighborhood as local or village center in Sub-section 3; and adding the term neighborhood to Sub-section 4; specifying new criteria for traditional village areas; criteria for spacing between districts; and adding a provision for large scale mixed use master planned developments.



#### 4.2.2 Traditional Community Districts

##### a. Mixed Uses Permitted

Traditional Community districts established by the Code are intended to accommodate a mixture of uses such as agriculture, residential, large scale residential, community service, institutional, non-residential or recreational uses anywhere inclusive of the boundaries of the village, provided the performance standards and criteria set forth by the Code are met.





b. Commercial and Industrial Uses Requirements

- 1) Location. Commercial or light industrial zoning may be approved in the traditional community where no qualifying intersection appears to be present provided:
  - a) Similar uses have been established as non-conforming on contiguous and adjacent locations in the community;
  - b) The re-zoning to be approved is similar in type and scale to those uses suggested for neighborhood or small scale districts by Article III, Section 4.3.2;
  - c) The re-zoning is compatible with neighboring uses;
  - d) It is the consensus of the local community to allow the proposed re-zoning and use; or
  - e) The re-zoning is pursuant to a general plan amendment for a local land use plan for the community which establishes the location for a local or small commercial center.
- 2) Development and Design Standards and Review Criteria. Commercial, light industrial and other non-residential uses proposed for approval are subject to the requirements set forth by Article III, Sections 4.4, 4.5 and 4.6.

History. 1980 Comp. 1980-6. Section 4.2.2 is new material for non-residential uses in Traditional Communities areas added by County Ordinance 1990-11.

4.2.3 General Scale and Size of Districts

The location or scale of a commercial or industrial non-residential district may be considered according to each of the following criteria:

- a. Location is dependent upon a qualifying intersection:

Type of District	Type of Roads Creating Intersection
Regional or Major	Controlled access highway such as the Santa Fe Relief Route or I-25 and 4 to 6 lane roads
Community Center	2 to 6 lane arterials or highways
Local or Village Center	2 to 4 lane arterials or collector roads
Neighborhood or Small Scale Center	2 lane sub-collector or local roads

- b. The boundary of a district is limited as follows along roads emanating from the qualifying intersection:

Regional or Major Center	2,500 feet
Community Center	1,750 feet
Local or Village Center	1,000 feet
Neighborhood or Small Scale	500 feet

- c. The maximum net developable number of acres, excluding public rights-of-way, in each type of districts is as follows:





#### 4.3.2 Guidelines for Types of Permitted Uses and Structures in Local or Small Scale Districts

- a. Retail establishments including supermarkets, drugstores, bakeries, meat markets, liquor stores, hardware, paint and wallpaper stores, camera shops, florist shops, gift shops, stationery shops, bookstores, apparel shops, shoe stores, variety stores, jewelry stores, pet shops, toy stores, movie-video stores, music or record stores, household goods stores;
- b. Restaurants and bars;
- c. Personal service establishments including barbershops, beauty shops, dry cleaning and laundromat establishments, shoe repair shops, tanning salons, spas, exercise or dance studios;
- d. Office and studios, medical offices and/or clinics;
- e. Banks or other financial institutions;
- f. Churches or other religious institutions;
- g. Public parks, public buildings (such as libraries) and community facilities or utility substations;
- h. Private day care;
- i. Dwelling units for occupancy only by owners or employee;
- j. Automotive service stations and repair garages not industrial in nature;
- k. Liquor and package liquor stores;
- l. Mini-storage units;
- m. Galleries;
- n. Private clubs and lodges;
- o. Veterinary establishments;
- p. Commercial indoor recreation;
- q. Shopping centers;
- r. Outdoor markets.

History: 1980 Comp. 1980-6. Sub-section v. was added to Section 4.3.2 by County Ordinance 1990-11.

#### 4.3.3 Accessory Uses

Accessory uses and structures are considered an amendment to an approved development plan, and may be permitted provided the requirements of the Code are met. Residential uses for security purposes may also be considered, provided the use can meet the minimum requirements of the Code for residential uses.

#### 4.3.4 Uses Not Listed

- a. Proposed uses or use groups either generalized or not listed as suggested to be permitted for zoning districts by the Code shall be evaluated by the Code Administrator to determine how a proposed use or use group should be categorized.
- b. Evaluations or interpretations of uses not listed shall be made in writing; shall state any precedent, reasons or analysis on which the evaluation is based; and shall be kept on file in the Land Use Department. The Standard Industrial Classification Manual, U.S. Department of Commerce, latest revision, may be used as a reference for such evaluations.
- c. Disagreement with an evaluation or interpretation of the Code Administrator may be appealed to the County Development Review Committee.
- d. New and unlisted uses that cannot logically be included in existing categories or that could not reasonably be anticipated at adoption of this Code may be added to these regulations by recommendation of the County Development Review Committee and approval by the Board.



fulfill the proposals contained in the subdivider's disclosure statement and in determining whether or not the subdivider's provisions for a subdivision conform with County regulations.

#### 4.8 Common Promotional Plans

The Code Administrator will review proposed applications to determine whether there is a common promotional plan to subdivide a property. If it is determined that the land division does constitute a common promotional plan, the project shall comply with the procedures provided for in this Article V.

### SECTION 5 - PROCEDURES AND SUBMITTALS

#### 5.1 Pre-application Procedures

Prior to the filing of an application for approval of a preliminary plat, the subdivider shall confer with the Code Administrator to become acquainted with these subdivision regulations. At this pre-application conference, the subdivider shall be advised of the following:

1. Submittals required by the Code.
2. Type and/or class of the proposed subdivision.
3. Individuals and/or agencies that will be asked to review the required submittals.
4. Required improvements.
5. Conditions under which Master Plans and Development Plans are required as described in Sections 5.2 and 7.
6. A determination will be made as to the appropriate scale and format for plans and plats and as to the appropriateness of applicable submittal requirements.

#### 5.2 Master Plan Procedure

##### 5.2.1 Introduction and Description

- a. Master plans are required in the following cases:
  - i. All Type I, Type II, and Type IV subdivisions with more than one development phase or tract;
  - ii. As required in Article III for developments other than subdivisions; and
  - iii. Such other projects which may elect to apply for master plan approval.
- b. A master plan is comprehensive in establishing the scope of a project, yet is less detailed than a development plan. It provides a means for the County Development Review Committee and the Board to review projects and the subdivider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a preliminary and final plat approval.
- c. The master plan submittal will consist of both plans and written reports which include the information required in 5.2.2 below. A typical submittal would include a vicinity map, a plan showing existing site data, a conceptual environmental plan with written documentation, a master plan map, a master plan report, a schematic utilities plan and the phasing schedule. Maps and reports may be combined or expanded upon at the discretion of the applicant to fit the particular development proposal as long as the relevant information is included.

##### 5.2.2 Master Plan Submittals

- a. Vicinity Map. A vicinity map drawn at a scale of not more than 2,000 feet to one inch showing contours at twenty (20) foot intervals showing the relationship of the site to its general surroundings, and the location of all existing drainage channels, water courses and water bodies located on the parcel and within three miles of the Parcel.

EXHIBIT

4



The locations of all Federal, State, or County Roads within one thousand (1000) feet of the parcel shall be shown. In addition, location of future highways and arterials as designated on the appropriate master plan for roads in the County (see 3-19-9 N.M.S.A. 1978) shall be shown.

- b. Existing Site Data. A description of existing conditions on or adjacent to the site. Maps shall be at a scale of one (1) inch to one hundred (100) feet or other appropriate scale as determined by the Code Administrator and shall include the following:
  - 1) Boundary lines: bearings and distances. The error of closure shall be of a third order survey, and no discrepancy between computed and measured distances shall exceed one (1) part in 1,280 parts;
  - 2) Easements: Location, width and purpose;
  - 3) Streets or Roads on and immediately adjacent to the tract, name and right-of-way width;
  - 4) Utilities on and immediately adjacent to the tract;
  - 5) Owners of record of unplatted land and existing subdivision plats by name and recordation, together with owners of record for affected lots shall be shown for property within one-hundred (100) feet of that tract not including public rights-of-ways.
  - 6) Title and certificates: Present tract designations according to official records in the County Clerk's Office, title under which the proposed development is to be recorded with name and address of owner, notation stating acreage, scale, true and magnetic north arrow, U.S.G.S. datum and benchmarks, if any, certification of the engineer or land surveyor licensed in accordance with the laws of the State of New Mexico who prepared the plat.
  - 7) Proof of legal access from a county or state road as required by the Code.
- c. Conceptual environmental plan shall include, when appropriate:
  - 1) Graphic representation of existing topography, natural features, slopes, and floodplains.
  - 2) Soils maps and reports (SCS)
  - 3) Recreational and/or open space plan, or landscape concepts.
  - 4) Liquid waste disposal plan, and
  - 5) Water Supply plan.
- d. Master plan map(s) showing the proposed development in sketch form, including:
  - 1) Proposed major vehicular and pedestrian circulation system.
  - 2) Designation and description of proposed land uses, including information about residential uses by type, area and density, and information about office, general commercial and industrial uses by area and intensity of development. Mixed uses shall not be prohibited.
  - 3) Logical and natural boundaries defining development limitations, and
  - 4) Any proposed sites for schools or other community facilities.
- e. A phasing schedule shall be included in the master plan giving a general description of each phase of the development.
- f. A schematic utilities plan showing location, locational cross sections, and approximate line sizes. It is recognized that there may be changes in the final utilities plan due to the requirements of utility companies or final engineering plans and specifications.



g. Master plan report which includes the following:

- 1) A general description of the project, existing development on the parcel, location, adjacent properties, acreage, lot coverage, access, traffic impacts, terrain management, soils, landscaping, outside lighting, parking, signage, water, liquid waste, solid waste, archaeological sites and fire protection measures;
- 2) If appropriate, market analysis and economic impact report which address: demand, projected sales and build-out; identifies a trade area; estimates retail sales and potential; and identifies the scale and extent of local competition;
- 3) Preliminary fiscal impact estimates of net local public costs, including capital outlay and operating expenses, and revenues attributable to the proposed project.
- 4) Preliminary environmental assessment, which identifies the possible effects of proposed development on natural resources or natural features. This may be combined with Section 5.2.2.c of this Article.
- 5) A written preliminary traffic report prepared by a licensed traffic engineer or other qualified expert acceptable to the Code Administrator.
- 6) Description of concepts for restrictive covenants proposed for the development if applicable, outlining the areas and extent of restriction or regulation. Detailed covenants are not required at this time.
- 7) Schools impact report. A written report which projects the effects the proposed project will have on public schools, and which includes:
  - the proposed number, size, and price of residential units within the project;
  - a description of the project's target market; and
  - where applicable, any special educational needs of the project's school-aged residents.

The report will also identify the schools that service the area of the proposed project and their boundaries, the transportation available to those schools, and a list of any pending or approved residential developments within those schools' boundaries. Copies of the schools impacts notice shall be submitted to the school district in which the project is located and to the Code Administrator.

### 5.2.3 Master Plan Review

The master plan shall be submitted to the Code Administrator or his authorized representative with a written application for approval. The Code Administrator will review the plan and submit analysis, written comments and a recommendation to the County Development Review Committee and the Board. Master plans shall be reviewed by the County Development Review Committee which shall make determinations regarding compliance with the County General Plan or the Extraterritorial Plan and the Code and shall forward the plan to the Board with the Committee's recommendation. The Board may adopt, amend, supplement, or reject the County Development Review Committee recommendation.

### 5.2.4 Master Plan Approval

- a. The approved master plan shall show the area of residential use and general density measured in dwelling units per acre of land, less dedicated or conveyed rights of-way, and the area and intensity of commercial and industrial use measured in gross square feet of building area or maximum gross floor area ratio. These shall constitute the maximum permitted number of dwelling units and maximum permitted area and intensity of commercial or industrial use.
- b. The County Development Review Committee and Board shall consider the following criteria in making determinations and recommendations for approval or amendment of master plans:
  1. Conformance to County and Extraterritorial Plan;



2. Suitability of the site to accommodate the proposed development;
3. Suitability of the proposed uses and intensity of development at the location;
4. Impact to schools, adjacent lands or the County in general;
5. Viability of proposed phases of the project to function as completed developments in the case that subsequent phases of the project are not approved or constructed;
6. Conformance to applicable law and County ordinances in effect at the time of consideration, including required improvements and community facilities and design and/or construction standards.

#### 5.2.5 Filing of Approved Master Plan

The approved master plan with maps which has been approved by and received signatures of the County Development Review Committee Chairman and Board Chairman shall be filed of record at the County Clerk's Office.

#### 5.2.6 Amendments and Future Phase Approvals

- a. Approval of the master plan is intended to demonstrate that the development concept is acceptable and that further approvals are likely unless the detailed development plans cannot meet the requirements of applicable law and County ordinances in effect at that time. Each phase of the development plan must be considered on its own merits.
- b. The Code Administrator may approve minor changes to the master plan. Any substantial change in land use or any increase in density or intensity of development in the approved master plan requires approval by the County Development Review Committee and the Board.
- c. Any changes approved by the Code Administrator pursuant to Section 5.2.6b of this Article shall be subject to the review and approval of County Development Review Committee and the Board at the time of development plan or plat approval.
- d. The phasing schedule may be modified by the Board at the request of the developer as economic circumstances require as long as there is no adverse impact to the overall master plan. (See Article V, Section 4.5)

#### 5.2.7 Expiration of Master Plan

- a. Approval of a master plan shall be considered valid for a period of five years from the date of approval by the Board.
- b. Master plan approvals may be renewed and extended for additional two year periods by the Board at the request of the developer.
- c. Progress in the planning or development of the project approved in the master plan consistent with the approved phasing schedule shall constitute an automatic renewal of the master plan approval. For the purpose of this Section, "progress" means the approval of preliminary or final development plans, or preliminary or final subdivision plats for any phase of the master planned project.

History. 1980 Comp. 1980-6. Sections 4.4, 4.5, 5.1 and 5.2 were amended by County Ordinance 1987-1 to provide for the submittal of a master plan.

#### 5.3 Preliminary Plat Procedure

##### 5.3.1 Introduction and Description

- 5.3.1a Preliminary plats shall be submitted for Type-I, Type-II, Type-III, except Type-III subdivisions that are subject to review under summary procedure as set forth in Subsection 5.5 of this Section, and Type-IV subdivisions.



**SECTION 6 - FEES AND LEVIES****6.1 Standard Fees**

Any person desiring to subdivide land in the County shall pay the current administrative fees set by the County. A fee schedule, which may be periodically amended, is available from the Code Administrator.

**6.2 Additional Fees for Unusual Circumstances**

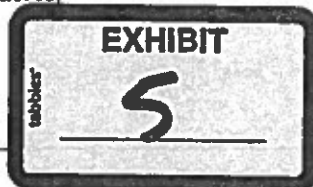
Where additional review by the County is required above and beyond normal review requirements due to complex, unforeseen, or unique circumstances relating to the proposed plan or plat, such as complex hydrological considerations, then the County may charge an additional review fee to defray the cost of such review. Review fees shall be only for professional services rendered to the County in the case that the County does not have qualified personnel to assist in reviewing such reports, plans and plats. When an additional fee is deemed necessary, the fee shall be arrived at between the County and the subdivider.

**SECTION 7 - DEVELOPMENT PLAN REQUIREMENTS****7.1 Preliminary Development Plans****7.1.1 Pre-application conference**

- a. Prior to the application for approval of a preliminary development plan for any phase or for an entire project, the subdivider may confer with the Code Administrator regarding the plan submittal and requirements of the Code according to Section 5.1 of this Article.
- b. At this time a determination will be made as to the appropriate scale and format for plans and plats and as to the appropriateness of applicable submittal requirements.

**7.1.2 Information to be submitted**

- a. Evidence of legal lot of record;
- b. Contour intervals of two feet or such other appropriate scale as determined by the Code Administrator;
- c. Arrangements, location and size of buildings, where applicable;
- d. Off-street parking and loading or dumping facilities, where applicable;
- e. Internal vehicular and pedestrian circulation, and ingress and egress;
- f. A drainage, grading, and erosion control plan including existing and proposed contours for roads and utilities; a preliminary/conceptual grading plan around buildings, when applicable;
- g. A landscaping plan providing a schedule specifying conceptual methods, to include type, size, and location of vegetative and non-vegetative landscape material, and a preliminary description of the irrigation system to be used;
- h. Walls, fences and earth berms; their approximate locations and identifying types of fences and walls, if applicable;
- i. Size, location, orientation, lighting and type of signage, where applicable;
- j. Conceptual plan for outdoor lighting, including type, size, location of fixtures, if applicable;
- k. Easements, rights-of-way and street design;
- l. Access to telephone, gas, and electric utility service;
- m. Utility plan for water and sanitary sewer;
- n. Residential densities/gross acres;





- o. Intensity of non-residential development, including lot coverages, gross floor area ratios or gross square feet of building area;
- p. A vicinity map showing the boundaries of the project, owners of record within one hundred feet of the tract including public rights-of-way and existing conditions and development, including adjacent streets and utilities, for at least two hundred feet from the project boundaries;
- q. If appropriate, the phases and approximate dates of development of the phases;
- r. The plan shall be drawn at a scale of one hundred feet (100') to the inch or such other appropriate scale as determined by the Code Administrator;
- s. Proposed community facilities and/or sites and recreational areas, if any, and proposed ownership of such;
- t. A schedule of on-site and off-site public improvements with the time of construction related to the phasing schedule;
- u. Information as required by state agencies;
- v. The preliminary subdivision plat may be submitted concurrently with the preliminary development plan, but is not required. Submittal of a schematic or sketch subdivision plat showing proposed lot layout, approximate dimensions and lot areas together with topography and natural features; and
- w. A written traffic report prepared by a licensed traffic engineer or other qualified expert as determined by the Code Administrator.
- x. Schools Impact Report. A written report which projects the effects the proposed project will have on public schools, and which includes: the proposed number, size, and price of residential units within the project; a description of the project's target market; and where applicable, any special educational needs of the project's school-aged residents. The report will also identify the schools that service the area of the proposed project and their boundaries, the transportation available to those schools, and a list of any pending or approved residential developments within those schools' boundaries. Copies of the schools impacts notice shall be submitted to the school district in which the project is located and to the Code Administrator.
- y. Water Supply Plan - Water System. As required by Article VII, Section 6 of the Code and Table 5.1, of Section 9.3 of this Article V.
- z. Solid Waste Disposal Plan. As required by Article VII, Section 7 of the Code.
- aa. Liquid Waste (Disposal) Plan. As required by Article VII, Section 2 of the Code.
- bb. Timing and Phasing of Development. Projections for 5 to 10 years.
- cc. Copies of deed restrictions and protective covenants must be submitted.

### 7.1.3 Review

- a. A preliminary development plan may be only a phase or portion of the area covered by an approved master plan, so long as the preliminary development plan substantially conforms to the approved master plan.
- b. A preliminary development plan shall be submitted prior to or concurrent with submission of a preliminary plat.
- c. The application for preliminary development plan approval shall be presented to the County Development Review Committee for review with a staff report. The staff report shall include a description of the proposed project, an evaluation of pertinent planning issues, and a statement on the compliance of the project with the County General Plan and Code. The report may include recommended conditions of approval. The report shall include all comments from appropriate State or Federal agencies, the County Fire Marshal, the County Hydrologist, and other appropriate County personnel. Particular attention shall be given in the staff report to public



agency comments which relate to potential limitations of lot size, intensity, or character of development.

→ 7.1.4 Criteria for development plan phase approval

- a. Conformance to the approved master plan;
- b. The plan must meet the criteria of Section 5.2.4 of this Article V.

7.2 Final Development Plan

7.2.1 Submittals

A final development plan conforming to the approved preliminary plan and approved preliminary plat, if required, and containing the same required information shall be submitted. In addition, the final development plan shall show, when applicable, and with appropriate dimensions, the locations and size of buildings, heated floor area of buildings, and minimum building setbacks from lot lines or adjoining streets. Documents to be submitted at this time are: proof of ownership including necessary title documents, articles of incorporation and by-laws of owners' association; required disclosure statements; final engineering plans and time schedule for grading, drainage, and all improvements including roads, water system, sewers, solid waste, utilities; engineering estimates for bonding requirements; development agreements; and final subdivision plats, if required.

7.2.2 Review

The final development plan shall be submitted to the County Development Review Committee accompanied by a staff report. The County Development Review Committee shall review the plan and make a determination as to its compliance with the County General Plan and Code. The County Development Review Committee may recommend changes or additions to the plan as conditions of its approval. The final development plan as approved by the County Development Review Committee shall be filed with the County Clerk. The approved final development plan becomes the basis of development permits and for acceptance of public dedications. Any changes in the plan must be approved by the County Development Review Committee.

History. 1980 Comp. 1980-6. Section 7 of Article V was amended by County Ordinance 1987-1 adding language relating to master plans.

**SECTION 8 - SUBDIVISION DESIGN STANDARDS**

These standards shall be binding upon the subdivider unless modifications are justified by sound engineering principles. Such modifications from these standards may be approved by the Board after a review by the County Development Review Committee upon presentation of documented justification by a licensed professional engineer.

8.1 General Policy on Roads

8.1.1 General

The arrangement, character, extent, width, grade and location of all roads shall be considered in relation to convenience and safety, and to the proposed uses of land to be served by such roads. Prior to grading or roadway cuts, all applicable permits shall be granted by the Code Administrator.





**JAMES W. SIEBERT  
AND ASSOCIATES, INC.**

---

**915 MERCER STREET \* SANTA FE, NEW MEXICO 87505**  
**(505) 983-5588 \* FAX (505) 989-7313**  
**jim@jwsiebert.com**

April 15, 2013

Jose Larranaga  
Commercial Development Case Manager  
Building and Development Services  
102 Grant Avenue  
Santa Fe, NM 87504

Re: Windmill Water Inc. Variance Request

Dear Mr. Larranaga,

On Behalf of Windmill Water Inc, I am requesting a variance to Section 6.4.1.d (submission of geohydrologic report or reconnaissance water availability assessment).

Windmill Water Inc, started off as a home occupation approved by the County in 1995, the Office of the State Engineer recognized the use in 1995 and permitted the well to be used for a Bottled Water business (see attached). At the time the home occupation license was issued, it was never brought to the applicants' attention that a geohydrologic report or reconnaissance report would be required, which is a significant cost for a small local business owner, especially during the recent economy.

The applicants have lived on the property since 1992 and began the business in 1995. In 2009 the property became part of the infill annexation to be located within the Town of Edgewood. At that time the applicants secured a commercial business license from the Town of Edgewood to continue to operate the business. The property was officially annexed into the Town of Edgewood in August of 2010. The case was appealed by the Municipal Boundary Commission and the case went to the Court of Appeals and on January 24, 2013 the Court of Appeals ruled in favor of the Municipal Boundary Commission, which disallowed the annexation. On January 24<sup>th</sup> the Court of appeals ruled in favor of the Municipal Boundary Commission and the property was once again under the jurisdiction of Santa Fe County. The Town of Edgewood has appealed to the Supreme Court to allow for the annexation. If the appeal is granted to the Town of Edgewood the property will once again be within Edgewood jurisdiction and will be in compliance with the required regulations for the Town of Edgewood.



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To conduct a geohydrologic report would require that the well supplying the bottling processing be taken off line for an extended period of time. This well serves as the livelihood for the Richter family. Decommissioning the well would have devastating financial consequences.

In summary, the reason for requesting the variance and the hardship that complies with Article II Section 3 of the Santa Fe County Land Development Code is:

1. Cost of preparing a geohydrologic report.
2. Likelihood that property will be annexed to the Town of Edgewood and compliance with the County Code is not required.
3. Business is borderline eligible for a home occupation permit, which in the past did not require a hydrologic evaluation.
4. Well serving the business could not be used for several days during the hydrological testing and recovery, which jeopardizes the viability of the business.
5. Conversation with the Office of the State Engineer validates that the well used for the business has a 1.78 acre foot water right associated with it and can be increased up to three-acre feet per annum as more water usage is submitted to the OSE. Attached to this letter is the approved permit which according to the OSE qualifies as a commercial water right.

Sincerely,

  
James W. Siebert

Xc: Diana Richter  
Leon Richter

NBD-55



HC 30954  
# 25.00

File Number: E6324

NEW MEXICO OFFICE OF THE STATE ENGINEER  
APPLICATION FOR PERMIT TO CHANGE LOCATION OF WELL

1. WATER RIGHT OWNER

Name: Leon or Diana Richter Work Phone: 281-9287  
Contact: Leon or Diana Richter Home Phone: 281-9287  
Address: P. O. Box 2174  
City: Edgewood State: NM Zip: 87015

2. PURPOSE OF USE

Domestic:      Livestock:      Irrigation:      Municipal:      Industrial:       
Commercial: XX Other (specify):       
Specific use: Bottled Water

3. QUANTITY

Consumptive Use: 3 acre-feet per annum  
Diversion Amount: 3 acre-feet per annum

4. PLACE OF USE

     acres of land described as follows:

Subdivision of Section (District or Hydrographic Survey)	Section (Map No.)	Township (Tract No.)	Range	Acres
<u>    </u>	<u>35</u>	<u>10N</u>	<u>7E</u>	<u>20.5</u>
<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>
<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>	<u>    </u>

Who is the owner of the land? Leon and Diana Richter

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NEW MEXICO OFFICE OF THE STATE ENGINEER  
APPLICATION FOR PERMIT TO CHANGE LOCATION OF WELL

5. CHANGE FROM

A. LOCATION OF WELL (Location a, b, c, d required, e or f if known)

a. SW 1/4 NW 1/4 NW 1/4 Section: 35 Township: 10N Range: 7E N.M.P.M.  
in Santa Fe County.

b. X = \_\_\_\_\_ feet, Y = \_\_\_\_\_ feet, N.M. Coordinate System  
\_\_\_\_\_ Zone in the \_\_\_\_\_ Grant.  
U.S.G.S. Quad Map \_\_\_\_\_

c. Latitude: \_\_\_\_\_ d \_\_\_\_\_ m \_\_\_\_\_ s Longitude: \_\_\_\_\_ d \_\_\_\_\_ m \_\_\_\_\_ s

d. East \_\_\_\_\_ (m), North \_\_\_\_\_ (m), UTM Zone 13, NAD \_\_\_\_\_ (27 or 83)

e. Tract No. \_\_\_\_\_, Map No. \_\_\_\_\_ of the \_\_\_\_\_ Hydrographic Survey

f. Lot No. \_\_\_\_\_, Block No. \_\_\_\_\_ of Unit/Tract \_\_\_\_\_ of the  
\_\_\_\_\_ Subdivision recorded in \_\_\_\_\_ County.

g. Other: \_\_\_\_\_

h. Give State Engineer File Number of existing well: E-6324

i. On land owned by (required): Leon and Diana Richter

j. Is well to be plugged or capped? Yes If not, state for what use  
retained: \_\_\_\_\_



NEW MEXICO OFFICE OF THE STATE ENGINEER  
APPLICATION FOR PERMIT TO CHANGE LOCATION OF WELL

6. CHANGE TO

A. LOCATION OF WELL (Location a, b, c, d required, e or f if known)

- a. SW 1/4 NW 1/4 NW 1/4 Section: 35 Township: 10N Range: 7E N.M.P.M.  
in Santa Fe County.
- b. X = \_\_\_\_\_ feet, Y = \_\_\_\_\_ feet, N.M. Coordinate System  
\_\_\_\_\_ Zone in the \_\_\_\_\_ Grant.  
U.S.G.S. Quad Map \_\_\_\_\_
- c. Latitude: \_\_\_\_\_ d \_\_\_\_\_ m \_\_\_\_\_ s Longitude: \_\_\_\_\_ d \_\_\_\_\_ m \_\_\_\_\_ s
- d. East \_\_\_\_\_ (m), North \_\_\_\_\_ (m), UTM Zone 13, NAD \_\_\_\_\_ (27 or 83)
- e. Tract No. \_\_\_\_\_, Map No. \_\_\_\_\_ of the \_\_\_\_\_ Hydrographic Survey
- f. Lot No. \_\_\_\_\_, Block No. \_\_\_\_\_ of Unit/Tract \_\_\_\_\_ of the  
\_\_\_\_\_ Subdivision recorded in \_\_\_\_\_ County.
- g. Other: \_\_\_\_\_
- h. Give State Engineer File Number of existing well: E-6324
- i. On land owned by (required): Leon and Diana Richter
- j. If new well, give approximate depth(if known) 340 feet; Outside  
diameter of casing 5 inches. Name of driller and license number  
(if known) Sandia Well, WD1500

7. REASON FOR CHANGE

Application is made to change location of well for the following reasons:

See attached Affidavit dated 7/21/06.

8. ADDITIONAL STATEMENTS OR EXPLANATIONS:

Replacement well is approximately 16 feet west and 3 feet  
north of existing well.



NEW MEXICO OFFICE OF THE STATE ENGINEER  
APPLICATION FOR PERMIT TO CHANGE LOCATION OF WELL

ACKNOWLEDGEMENT

(I, We) Leon and Diana Richter affirm that the  
(Please Print)  
foregoing statements are true to the best of (my, our) knowledge and belief.

[Signature]  
Applicant Signature

[Signature]  
Applicant Signature

ACTION OF STATE ENGINEER

This application is approved/denied/partially approved provided it is not  
exercised to the detriment of any others having existing rights, and is not  
contrary to the conservation of water in New Mexico nor detrimental to the  
public welfare; and further subject to the following conditions:

SEE ATTACHED CONDITIONS  
OF APPROVAL

Witness my hand and seal this 22<sup>nd</sup> day of December, 20 06

JOHN R. D'ANTONIO, JR. P.E.  
STATE ENGINEER

[Signature], State Engineer



## CONDITIONS OF APPROVAL

Permit No.: E-6324

Permittees: Leon or Diane Richter

Page 1 of 2

1. This application is approved as follows:

**Permittee:** Leon or Diane Richter

**Permit Number:** E-6324

**Application File Date:** September 5, 2006

**Notice for Publication:** September 20, 2006

**Affidavit of Publication:** December 7, 2006 *Albuquerque Journal – Mountain View Telegraph*

**Priority:** October 30, 1995

**Source:** Groundwater

**Points of Diversion:** Move-from: Well No. E-6324 located in SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 35, Township 10 North, Range 7 East, NMPM, located to a point where X=392,945 meters and Y=3,879,484 meters, NAD 1927, UTM Zone 13 N in Santa Fe County, New Mexico.

Move-to: Well No. E-6324-POD2 located in SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 35, Township 10 North, Range 7 East, NMPM, located within 100 feet of a point where X=392,945 meters and Y=3,879,484 meters, NAD 1927, UTM Zone 13 N in Santa Fe County, New Mexico.

**Purpose of Use:** Commercial

**Place of Use:** Bottling and water purification facility located in the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 35, Township 10 North, Range 7 East, NMPM, specifically, 2042 Hwy 333 Edgewood, NM 87015, Santa Fe County, New Mexico.

**Amount of Water:** Diversion amount of 3.0 acre-feet per annum.

2. The total diversion of groundwater from well No. E-6324 shall be limited to 3.0 acre-feet per annum, measured at the well.
3. The total amount of water pumped from well No. E-6324 shall be measured by a totalizing meter of a type, at a location, and installed in a manner acceptable to the State Engineer. The Permittee shall provide the make, model, serial number, initial reading,

NBD-60



## CONDITIONS OF APPROVAL

Permit No.: E-6324

Permittees: Leon or Diane Richter



Page 2 of 2

units, multiplier, data of installation, and dates of recalibration to the State Engineer prior to any diversion of water under this permit.

4. Records of the quantity of water diverted from Well E-6324 shall be submitted to the District 1 Office via mail, e-mail, or facsimile on or before the 10<sup>th</sup> day of the months of January, April, July and October for the preceding three calendar months, i.e. quarterly.
5. The Permittee shall utilize the highest and best technology available to assure conservation of water to the maximum extent practical.
6. The Permittee shall be file a Well Plugging Plan on or before May 15, 2007. Well E-6324 shall be plugged in accordance with Subsection C 19.27.4.30 NMAC before May 15, 2008.
7. Proof of Completion of Well shall be filed on or before May 15, 2008.
8. Proof of Application of Water to Beneficial Use shall be filed on or before May 15, 2008.

Witness my hand and seal this 22<sup>nd</sup> day of December, A.D. 2006.

JOHN R. D'ANTONIO, JR., P.E.  
NEW MEXICO STATE ENGINEER

By   
David B. Anderson  
Water Resource Specialist Senior, District 1  


NBD-61





**DISTRICT I**

**JOHN R. D'ANTONIO, JR., P.E.**  
STATE ENGINEER

121 Tijeras NE, Suite 2000  
Albuquerque, NM 87102  
(505) 764-3888

December 22, 2006

**File No: E-6324**

Leon and/or Diana Richter  
Windmill Water, Inc.  
P.O. Box 2174  
Edgewood, NM 87015-2174

Greetings:

Enclosed is your copy of Permit to Change Location of Well, numbered above, which has been approved subject to the conditions of approval attached hereto.

Please be advised that your rights under this permit will expire May 15, 2008, unless Proof of Completion of Well and Proof of Application of Water to Beneficial Use or an Application for Extension of Time is received in this office on or before that date. Under the new Estancia Basin administrative guidelines adopted June 20, 2002, a final three-year extension of time may be approved if at least 50 percent of the permitted amount has been beneficially used.

Sincerely,

Jeffrey L. Peterson  
Water Resource Specialist

Enclosure

cc: W.A.T.E.R.S. Project

NBD-62





# New Mexico Office of the State Engineer Transaction Summary

APPRO Application to Appropriate

Transaction Number: 160445

Transaction Desc: E 06324

File Date: 10/30/1995

Primary Status: PMT Permit

Secondary Status: ET Extension of Time Approved

Person Assigned: \*\*\*\*\*

Applicant: WINDMILL WATER

Contact: LEON E. AND/OR DIANA K. RICTER

## Events

Date	Type	Description	Comment	Processed By
10/30/1995	APP	Application Received	*	*****
11/08/1995	NFP	Notice for Publication		*****
11/25/1995	AOP	Affidavit of Publication rcv		*****
06/06/1997	PUC	PBU/PCW Approval		*****
06/06/1997	FIN	Final Action on application		*****
05/02/2001	ETR	Extension of Time Received		*****
05/17/2004	ETR	Extension of Time Received		*****
07/07/2004	ETU	Extension of Time PBU/PCW		*****
07/07/2004	ETU	Extension of Time PBU/PCW		*****
05/09/2005	ETR	Extension of Time Received	Requests 5/15/2008.	*****
10/12/2005	ETU	Extension of Time PBU/PCW	Approved through 5/15/2008	*****
12/22/2005	QAT	Quality Assurance Completed		*****

## Water Right Information

WR File Nbr	Acres	Diversion	Consumptive	Purpose of Use
E 06324	3	3		COM COMMERCIAL

### \*\*Point of Diversion

E 06324 393054 3879467\*

\*An (\*) after northing value indicates UTM location was derived from PLSS - see Help

### \*\*Place of Use

Q	Q	Q	Q	Sec	Tws	Rng	Acres	Diversion	Consumptive	Use	Priority	Status	Other	Loc	Desc
256	64	16	4	NW	35	10N	07E	3	3	COM		PMT			

## Remarks

THIS WELL IS USED FOR COMMERCIAL BOTTLED WATER BUSINESS.

## Conditions



## Conditions

- 5A A totalizing meter shall be installed before the first branch of the discharge line from the well and the installation shall be acceptable to the State Engineer; the Engineer shall be advised of the make, model, serial number, date of installation, and initial reading of the meter prior to appropriation of water; pumping records shall be submitted to the District Supervisor for each calendar month on or before the 10th day of the following month.

---

## Action of the State Engineer

**\*\* Please see images for long conditions \*\***

Approval Code: A - Approved

Action Date: 06/06/1997

PCW Due Date: 05/15/2008

PBU Due Date: 05/15/2008

State Engineer: Thomas C. Turney



- 6.3.2b Plans and specifications for production or diversion, storage and distribution facilities and a time schedule for their completion, prepared by or under the supervision of a registered professional engineer.
- 6.3.2c A legal description of the location of all construction, easements and right-of-way necessary for the installation of the water supply system.
- 6.3.2d Site plans showing topography, parcel boundaries, streets, wells, hydrants, and water storage and distribution system. The size or capacity of the system components shall be indicated.
- 6.3.2e Well plans indicating casing diameter, total depth, screened interval, and proposed pump setting.
- 6.3.2f An agreement providing for:
  - (i) The construction and operation of the water supply system as shown in the plat documents and plans.
  - (ii) Collateral, in the form of a performance bond or other means, to adequately assure the complete construction and operation of the system in accordance with design and time specifications.
  - (iii) Certification of the operator of the system.
  - (iv) Involvement as prescribed in the plat documents, of any Homeowners' Association, Mutual Domestic Association, or non-profit corporation for the purpose of operation and maintenance of the system.
- 6.3.2g If the developer is within a declared basin, the applicant shall obtain a valid water right permit issued by the State Engineer pursuant to Section 6.2.2 of this Section.

#### 6.3.3 Review of Community Water Systems

- 6.3.3a In reviewing community water systems the Board shall consider:
  - (i) the availability of water for the system;
  - (ii) the potential for water conservation in areas served by the system;
  - (iii) the relationship of the system to adopted local or county land use and utility goals;
  - (iv) the proper disposal of wastewater from areas served by the system; and
  - (v) the conformance of the system to federal and state regulations.
- 6.3.3b In general, the Board shall encourage the use of such systems, and shall approve them unless the indicated reviews demonstrate that such systems, or the expansion thereof, will substantially conflict with the policies and goals of the County General Plan and this Code.

### → 6.4 Water Availability Assessments

#### 6.4.1 Requirements for Water Availability Assessments

The requirements of the water availability assessment are dependent on the source of water supply such that:

- 6.4.1a For developments where the source of water will be a new community well and community water system permitted pursuant to Section 72-12-3 or 72-12-7



NMSA 1978, the applicant shall demonstrate a one hundred (100) year supply and shall submit a geohydrologic report and other information in accordance with Section 6.4.2, or a reconnaissance water availability assessment in accordance with Section 6.4.6, if applicable;

6.4.1b For developments where the source of supply will be a new surface water diversion and community system pursuant to Section 72-5-1, 72-5-23 or 72-5-24 NMSA 1978, the applicant shall submit a hydrologic report and other information in accordance with Section 6.4.3;

6.4.1c For developments where the source of supply will be an existing community or municipal water supply system permitted pursuant to Sections 72-5-1, 72-5-23, 72-5-24, or 72-12-3, the applicant shall submit a water availability assessment in accordance with Section 6.4.4; or

→ 6.4.1d For developments where the source of water will be individual domestic wells or shared wells permitted pursuant to Section 72-12-1, the applicant shall demonstrate a one hundred (100) year supply and shall submit a geohydrologic report in accordance with Section 6.4.5, or a reconnaissance water availability assessment in accordance with Section 6.4.6, if applicable.

6.4.1e For developments of five (5) or fewer lots, the applicant shall provide water availability information in accordance with Section 6.4.7.

→ 6.4.2 For new community wells and community water systems, the applicant shall submit a water availability assessment which includes the following:

6.4.2a A geohydrologic report which shall demonstrate that groundwater sufficient to meet the maximum annual water requirements of the development is physically available and can be practically recovered to sustain the development for a continuous period of one hundred (100) years. These analyses shall take into account the production of existing wells and shall demonstrate that the project wells, as proposed or as designed, will be capable of producing the full annual demand for at least one hundred (100) years.

6.4.2b The applicant shall drill sufficient exploratory wells to adequately characterize the aquifer in accordance with the requirements listed in Table 7.5. Tests made within one mile of the development may be utilized, provided that the report demonstrates that the geologic conditions at the site of such tests are comparable to those within the development. For developments involving more than 160 acres, at least one test shall be within the development. Except where geologic conditions are complex, the well test requirement shall not be interpreted to require more than one (1) test per four (4) dwelling units. Where cluster or shared wells are to be used throughout a development, the requirement should not be interpreted to require more than one (1) test per ten (10) dwelling units. These well test requirements may be waived by the Code Administrator upon recommendation of the County Hydrologist; provided that for subdivisions of Types I, II and IV and subdivisions requiring community water systems, at least one (1) test shall be made within the development.

6.4.2c The applicant shall provide a calculated one hundred (100) year schedule of effects on the development's production well(s) which may result from existing





Section 6.4 - Water Availability Assessments  
 Section 6.5 - Water Quality  
 Section 6.6 - Water Conservation  
 Section 6.7 - Fire Protection

Table 7.4 indicates which Sections of this Article shall be required for different types of development:

TABLE 7.4 - REQUIRED CODE SECTIONS FOR WATER SUPPLY	
<u>Development Type</u>	<u>Required Sections</u>
Any development which includes construction or expansion of a community water system	6.3, 6.4, 6.5, 6.6, 6.7
All subdivisions containing 6 or more lots	6.2.2 as applicable, 6.4, 6.5, 6.6, 6.7
All subdivisions containing 5 or fewer lots	6.2.2 and 6.3 if applicable 6.4.7, 6.5, 6.6
All subdivisions required to have community water systems as listed on Article V, Section 9, Table 5.1	6.2.2, 6.3, 6.4, 6.6, 6.7
All large scale residential development	6.4, 6.5, 6.6, 6.7, 6.3 if applicable
All non-residential development in which the project uses more than 0.25 acre feet of water annually or in which the applicant obtains water other than through a well which is permitted under Section 72-12-1 NMSA 1978 as it may be amended	6.4, 6.6, 6.7, 6.5 (depending on use)
All development in which the applicant requests a density adjustment based on water availability	6.4, 6.6, 6.7
All development in which the applicant requests a density adjustment based on water conservation.	6.4, 6.6, 6.7
All lots created in accordance with Article II, Sections 2.3.1a.ii (b), (d), (f), (g) and (h)	6.6.2

#### 6.2.2. Required Water Right Permits

6.2.2a For all subdivisions containing twenty (20) or more parcels, any one of which is two (2) acres or less in size, the subdivider shall provide proof that the person providing the water has a valid water right permit issued by the State Engineer pursuant to Sections 72-5-1, 72-5-23, 72-5-24, 72-12-3 or 72-12-7 NMSA 1978,



### 2.5 Zoning

In connection with the review of an application for a development permit with respect to matters described in the New Mexico Statutes concerning zoning, the procedures concerning zoning matters set forth in the New Mexico Statutes, as amended from time to time, shall apply in addition to the review procedures provided in the Code. The time limits established in this Article II may be extended if required, in order to comply with the procedures concerning zoning matters.

### 2.6 Subdivisions

In connection with review of an application for a development permit with respect to matters described in the New Mexico Subdivision Act, as it may be amended from time to time, the procedures for review provided for in Article V of the Code and the New Mexico Subdivision Act shall apply in addition to the review procedures provided in this Article II of the Code. The time limits established in this Article II shall be extended if required in order to comply with the procedures concerning subdivision matters.

### 2.7 Other Requirements

The time limits set forth in this Article II shall be extended in order to comply with other provisions of the Code providing for time limits in connection with reviews and requirements under the Code.

## SECTION 3 - VARIANCES

### → 3.1 Proposed Development

Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking of property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.

### → 3.2 Variation or Modification

In no case shall any variation or modification be more than a minimum easing of the requirements.

### 3.3 Granting Variances and Modifications

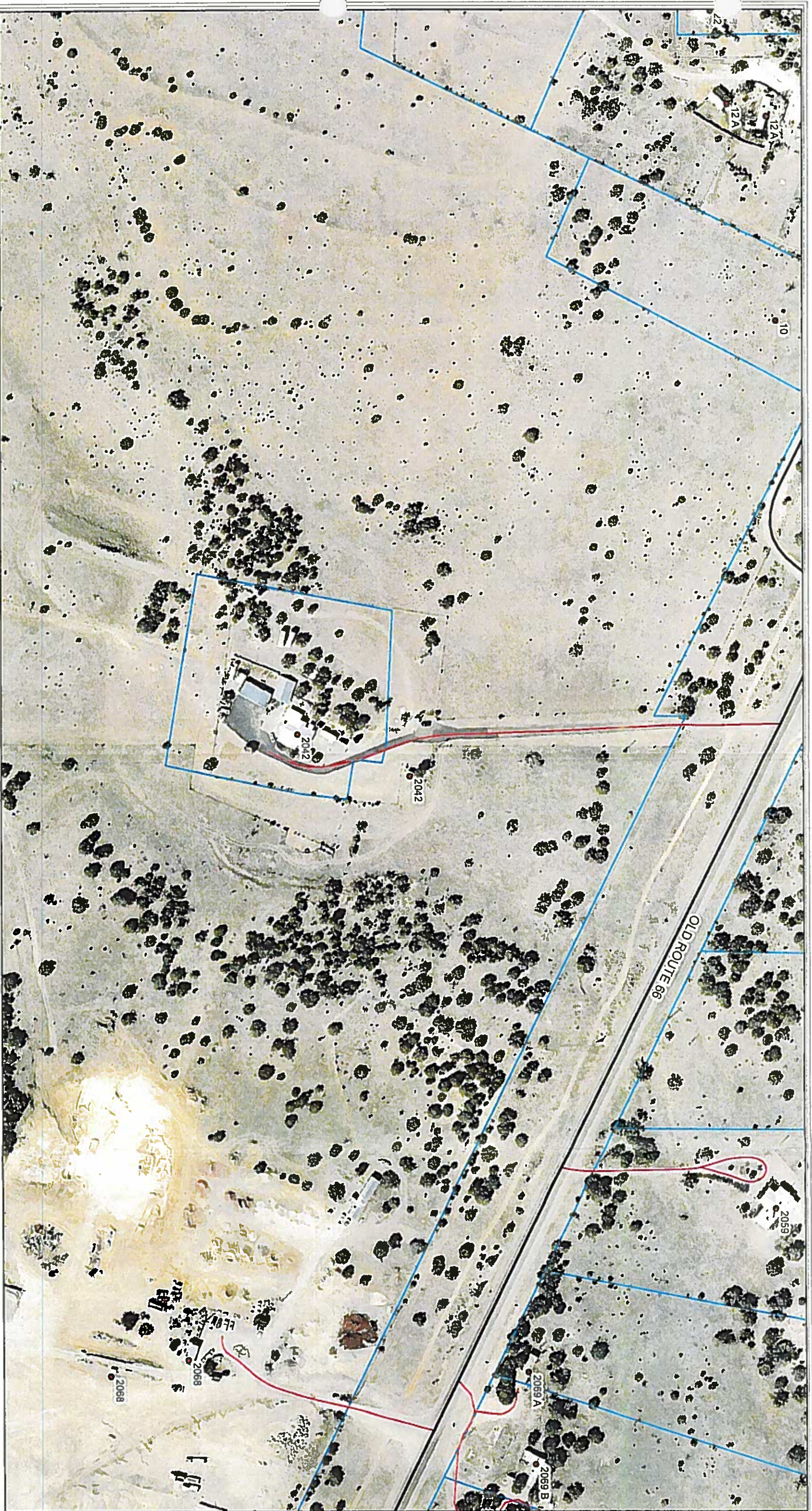
In granting variances, and modifications, the Board may require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

### 3.4 Height Variance in Airport Zones

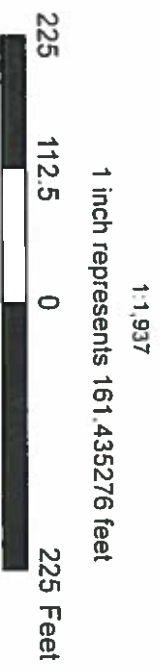
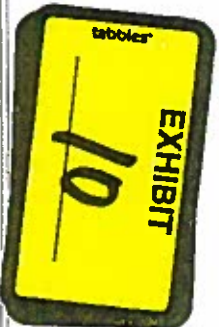
All height variance requests for land located with approach, Transitional, Horizontal and Conical surfaces as described within Map #31 as incorporated herein by reference, shall be reviewed for compliance with Federal Aviation Administration Regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the







- Legend
- ROADS
  - DRIVEWAYS
  - Parcels



This information is for reference only.  
Santa Fe County assumes no liability for  
errors associated with the use of these data.  
User are solely responsible for  
confirming data accuracy.

2008 Orthophotography  
2 FOOT CONTOURS

NBD-49

May 7, 2013











Legend  
ROADS  
DRIVEWAYS



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User are solely responsible for  
confirming data accuracy.

2008 Orthophotography  
2 FOOT CONTOURS



NBD-7b  
May 7, 2013









STATE OF NEW MEXICO  
OFFICE OF THE STATE ENGINEER  
SANTA FE

Scott A. Verhines, P.E.  
State Engineer

April 5, 2013

CONCHA ORTIZ Y PINO BLDG.  
POST OFFICE BOX 25102  
130 SOUTH CAPITOL  
SANTA FE, NEW MEXICO 87504-5102  
(505) 827-6091  
FAX: (505) 827-3806

Jose E. Larrañaga  
Commercial Development Case Manager  
Santa Fe County  
P.O. Box 276  
Santa Fe, NM 87504-0276

**CERTIFIED MAIL**  
**RETURN RECEIPT**  
**REQUESTED**

**Reference: Windmill Water Inc. Master Plan and Preliminary Development Plan**

Dear Mr. Larrañaga:

On March 12, 2013, the Office of the State Engineer (OSE) received a request to provide comments for the Windmill Water Inc. Master Plan and Preliminary Development Plan submittal.

The proposal provides a request for rezoning from home occupation with a business license to commercial. This review is only for rezoning and not for phasing or future improvements of the development. The development is located on a 2.84 acre parcel located east of Old Route 66 and south of the town of Edgewood within Sections 34 & 35, Township 10 North, Range 7 East, NMPM. The water is supplied by existing wells for residential use (E 03007) and commercial use (E 06324).

This proposal was reviewed pursuant to the Santa Fe County Land Development Code (Code) and the New Mexico Subdivision Act.

When a development/subdivision proposal is received by the OSE, the developer's water demand analysis is reviewed (pursuant to the Code) to determine if it is technically correct and reasonable. The OSE also verifies that the appropriate conservation measures are reflected in the analysis. Further, data in the water demand analysis is compared with the data and statements included in the disclosure statement and in the restrictive covenants to make sure that they are consistent with each other.

The water budget provided lists a use of 0.25 acre-feet per year for residential use. The residential well can use up to 3.0 acre-feet per year. The water budget for the commercial well lists a use of up to 1.78 acre-feet per year based on beneficial use for commercial water bottling. The



NBD-71



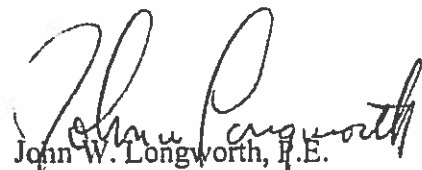
developer states that there are 1.22 acre feet per year of water use available under the original commercial appropriation. It should be noted that Windmill Water Inc. had a permit to appropriate 3 acre feet per year, but only provided Proof of Beneficial Use (PBU) for 1.78 acre feet per year. Once the PBU application is submitted, the applicant is limited to that amount. Thus, 1.78 acre feet per year, i.e., the actual beneficial use is the limit of the right. It is recommended that the developer contact the Water Rights Division with any questions regarding their aforementioned water right.

Section 47-6-11.F (I) of the New Mexico Subdivision Act requires that the developer provide documents demonstrating that water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision is available. Therefore, the OSE reviews the water rights and the physical water availability.

Article VII, Section 6.1 of the Code allows the Santa Fe County Land Use staff to refer development plans to state agencies for review *"if, in the opinion of the County Hydrologist and the Code Administrator, such referrals will provide information necessary to the determination of whether or not a proposed development is in conformance with provisions of this Code"*. The OSE recognizes the proactive actions on behalf of the County to solicit the technical opinion of the OSE on this development plan. However, because the proposed development is not formally covered under the New Mexico Subdivision Act, the OSE declines to provide an opinion at this time. We appreciate the opportunity to review the Windmill Water Inc. Master Plan and Preliminary Development Plan.

If you have any questions, please call Kenneth Richard at 505-827-3838.

Sincerely,



John W. Longworth, P.E.  
Water Use & Conservation/Subdivision Review Bureau Chief

cc: OSE Water Rights Division, Santa Fe Office

NBD-42





*New Mexico* DEPARTMENT OF  
**TRANSPORTATION**

April 18, 2013

Jose E. Larrañaga  
Commercial Development Case Manager  
102 Grant Avenue  
P.O. Box 276  
Santa Fe, NM 87504-0276

RE: CDRC Case # Z/PDP 13-5080 Windmill Water Master Plan

Dear Mr. Larrañaga:

The New Mexico Department of Transportation (NMDOT) District 5 Traffic Section has reviewed the subject master plan dated March 8, 2013. This master plan consists of selling domestic water to private persons for consumption. The traffic counts from James W. Siebert & Assoc. Inc. revealed low hourly volumes and therefore, this development will not have any impacts to our roadway system and recommend approval.

Please feel free to contact me at (505)476-4223 if you have any questions.

Sincerely:

Ruben Chavez Garcia, P.E.  
District 5 Traffic Engineer

Cc: Phil Gallegos, Assistant District Engineer – Engineering Support  
Jeremy Lujan, Property Management Unit

**Susana Martinez**  
Governor

**Tom Church**  
Interim Cabinet Secretary

**Commissioners**

**Pete Rahn**  
Chairman  
District 3

**Ronald Schmeits**  
Commissioner  
District 4

**Dr. Kenneth White**  
Secretary  
District 1

**Robert R. Wallach**  
Commissioner  
District 2

**Butch Mathews**  
Commissioner  
District 5

**Jackson Gibson**  
Commissioner  
District 6





Susana Martinez  
Governor

State of New Mexico  
**ENVIRONMENT DEPARTMENT**  
Environmental Health Bureau  
Santa Fe Field Office  
2540 Camino Edward Ortiz  
Santa Fe, NM 87507  
505-827-1840  
www.nmenv.state.nm.us



F. David Martin  
Secretary

Butch Tongate  
Deputy Secretary

Tom Blaine  
Director

March 15, 2013

Mr. Jose E. Larrañaga, Case Manager  
Santa Fe County - Planning & Zoning Department  
P.O. Box 276  
Santa Fe, New Mexico 87504-0276

**RE: CDRC Case # Z/PDP 13-5080 Windmill Water Master Plan**

Dear Mr. Larrañaga,

I have reviewed **CDRC Case # Z/PDP 13-5080 Windmill Water Master Plan** submittal for compliance with New Mexico Liquid Waste Disposal and Treatment Regulations (20.7.3 NMAC) only. These regulations are administered by the New Mexico Environment Department (NMED).

The plan notes an existing liquid waste system, however there is no indication that the system is properly permitted. The plan also notes two on-site wells, one of which is the source well for the business that is operated at this location.

There was no detailed description of the residences that are on site. It appears that there may be a 3 bedroom residence and perhaps a 2 bedroom residence at this location. If this is correct the property would have a liquid waste design flow of 675 gallons per day (GPD). This would be well within the total allowable design flow of 1420 gallons per day on 2.84 acres.

There was no indication submitted that both of the on-site wells meet the required setback to the liquid waste system. This should be verified, particularly due to the type of business that is in operation at this location. The source well is permitted by the Office of the State Engineer (OSE) with the Permit # E 06324. The compliance history should be verified through OSE and the NMED – Drinking Water Bureau.

It should also be noted that the business at this location should be in compliance with 1) the Federal Safe Drinking Water Act (SDWA), 2) the New Mexico Food Service and Food Processing Regulations (NMAC 7.6.2.14) section on water bottlers, 3) 21 CFR part 129 and 4) the International Bottled Water Association model code (referenced at 7.6.2.14.B)

Second phase improvements were introduced for future development and may require additional liquid waste system capacity. More information will be needed to make that determination when the time comes.

NBD-174



Mr. Jose E. Larrañaga, Case Manager  
Santa Fe County - Planning & Zoning Department  
March 15, 2013  
Page 2

If you have any questions regarding the review of the **CDRC Case # Z/PDP 13-5080 Windmill Water Master Plan** or other matters related to this permit, please contact me at the number above.

Best Regards,

A handwritten signature in black ink, appearing to read "Robert Italiano", with a stylized flourish at the end.

Robert Italiano, Manager  
Environmental Health Bureau - District II  
New Mexico Environment Department  
Santa Fe Field Office

NBD-75





STATE OF NEW MEXICO  
**DEPARTMENT OF CULTURAL AFFAIRS**  
**HISTORIC PRESERVATION DIVISION**

Susana Martinez  
Governor

BATAAN MEMORIAL BUILDING  
407 GALISTEO STREET, SUITE 236  
SANTA FE, NEW MEXICO 87501  
PHONE (505) 827-6320 FAX (505) 827-6338

April 12, 2013

Jose E. Larrañaga  
Commercial Development Case Manager  
County of Santa Fe  
102 Grant Avenue  
P.O. Box 276  
Santa Fe, NM 87504-0276

RE: CDRC Case # Z/PDP 13-5080 Windmill Water Master Plan

Dear Mr. Larrañaga:

I have completed my review of the above referenced master plan and preliminary development plan report received at the Historic Preservation Division (HPD) on March 12, 2013. According to our records, there are no historic properties listed on the State Register of Cultural Properties or the National Register of Historic Place within the project parcel. There are also no known archeological sites.

Since this master plan does not involve new development, this office has no concerns. Please do not hesitate to contact me if you have any questions. I can be reached by telephone at (505) 827-4064 or by email at [michelle.ensey@state.nm.us](mailto:michelle.ensey@state.nm.us).

Sincerely,

Michelle M. Ensey  
Archaeologist

Log: 96412

NBD-76





SUSANA MARTINEZ  
Governor  
JOHN A. SANCHEZ  
Lieutenant Governor

*State of New Mexico*  
**ENVIRONMENT DEPARTMENT**

*Office of the Secretary*

Harold Runnels Building  
1190 Saint Francis Drive, PO Box 5469  
Santa Fe, NM 87502-5469  
Telephone (505) 827-2855 Fax (505) 827-2836  
[www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)



RYAN FLYNN  
Cabinet Secretary-Designate  
BUTCH TONGATE  
Deputy Secretary

April 23, 2013

County of Santa Fe  
ATTN: Jose E. Larrañaga  
102 Grant Ave  
Santa Fe, NM 87504  
[joselarra@cosanta-fe.nm.us](mailto:joselarra@cosanta-fe.nm.us)

RESPONSE BY EMAIL

**RE: CDRC Case #Z/PDP 13-5080 Windmill Water Master Plan**

Dear Mr. Larrañaga:

Your letter regarding the above named project was received by the New Mexico Environment Department (NMED) and was sent to various bureaus for review and comment. Comments were provided from the Ground Water Quality and Surface Water Quality Bureaus, and are as follows.

**Ground Water Quality Bureau**

After review, the GWQB determined the review is regarding a zoning issue in Santa Fe County. The GWQB does not comment on zoning issues for which it has no jurisdiction.

**Surface Water Quality Bureau**

The U.S. Environmental Protection Agency (USEPA) requires National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) coverage for storm water discharges from construction projects (common plans of development) that will result in the disturbance (or re-disturbance) of one or more acres, including expansions, of total land area. Because this project may exceed one acre (including staging areas, etc.), it may require appropriate NPDES permit coverage prior to beginning construction (small, one - five acre, construction projects may be able to qualify for a waiver in lieu of permit coverage - see Appendix D). If the project is less than one acre, these construction activities should be addressed under the City's industrial storm water permit and Storm Water Pollution Prevention Plan (SWPPP).

Among other things, this permit requires that a SWPPP be prepared for the site and that appropriate Best Management Practices (BMPs) be installed and maintained both during and after construction to prevent, to the extent practicable, pollutants (primarily sediment, oil & grease and construction materials from construction sites) in storm water runoff from entering

NBD-75



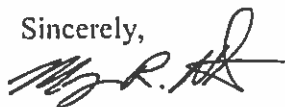
waters of the U.S. This permit also requires that permanent stabilization measures (revegetation, paving, etc.), and permanent storm water management measures (storm water detention/retention structures, velocity dissipation devices, etc.) be implemented post construction to minimize, in the long term, pollutants in storm water runoff from entering these waters. In addition, permittees must ensure that there is no increase in sediment yield and flow velocity from the construction site (both during and after construction) compared to pre-construction, undisturbed conditions (see Subpart 10.C.1.b)

You should also be aware that EPA requires that all "operators" (see Appendix A) obtain NPDES permit coverage for construction projects. Generally, this means that at least two parties will require permit coverage. The owner/developer of this construction project who has operational control over project specifications (probably the City of Belen in this case), the general contractor who has day-to-day operational control of those activities at the site, which are necessary to ensure compliance with the storm water pollution plan and other permit conditions, and possibly other "operators" will require appropriate NPDES permit coverage for this project.

The CGP was re-issued effective February 16, 2012. The CGP, NOI, Fact Sheet, and Federal Register notice can be downloaded at: <http://cfpub.epa.gov/npdes/stormwater/cgp.cfm>

I hope you find this information helpful.

Sincerely,



Morgan R. Nelson  
Environmental Impact Review Coordinator  
NMED File Number: EIR 3881

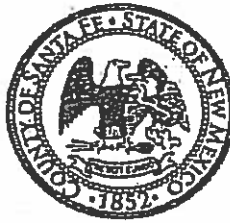
NBD-78



Daniel "Danny" Mayfield  
Commissioner, District 1

Miguel Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Hollan  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

## Santa Fe County Fire Department Fire Prevention Division

### Official Development Review

Date	03-20-2013		
Project Name	Windmill Water Inc.		
Project Location	2042 Old US 66, Edgewood, New Mexico 87015		
Description	Request for Commercial Zoning	Case Manager	Jose Larranaga
Applicant Name	Diana & Leon Ricker	County Case #	13-5080
Applicant Address	PO Box 2174 Edgewood, New Mexico 87015	Fire District	Edgewood
Applicant Phone	505-281-9287		
Review Type:	Commercial <input checked="" type="checkbox"/>	Residential <input type="checkbox"/>	Sprinklers <input type="checkbox"/>
	Master Plan <input checked="" type="checkbox"/>	Preliminary <input checked="" type="checkbox"/>	Final <input type="checkbox"/>
	Wildland <input type="checkbox"/>	Variance <input type="checkbox"/>	Hydrant Acceptance <input type="checkbox"/>
		Inspection <input checked="" type="checkbox"/>	Lot Split <input type="checkbox"/>
Project Status:	Approved <input checked="" type="checkbox"/>	Approved with Conditions <input type="checkbox"/>	Denial <input type="checkbox"/>

The Fire Prevention Division/Code Enforcement Bureau of the Santa Fe County Fire Department has reviewed the above submittal and requires compliance with applicable Santa Fe County fire and life safety codes, ordinances and resolutions as indicated:

#### Fire Department Access

*Shall comply with Article 9 - Fire Department Access and Water Supply of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal*

- Fire Access Lanes**

Section 901.4.2 Fire Apparatus Access Roads. (1997 UFC) *When required by the Chief, approved signs or other approved notices shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof or both.*

Curbs or signage adjacent to the building, fire hydrant, entrances and landscape medians in traffic flow areas shall be appropriately marked in red with 6" white lettering reading "FIRE LANE - NO PARKING" as determined by the Fire Marshal. Assistance in details and information are available through the Fire Prevention Division.



No off-site parking shall be allowed and shall be marked accordingly as approved by the Fire Marshal.

#### **Roadways/Driveways**

*Shall comply with Article 9, Section 902 - Fire Department Access of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.*

Driveway meets the minimum County standards for fire apparatus access roads with a 18' wide all-weather driving surface and an unobstructed vertical clearance of 13' 6" within this type of proposed development.

The master plan incorporated a cul-de-sac turnaround area for emergency vehicle purposes conforming to the access and turnaround requirements and dimensions of the Santa Fe County Fire Department. The Cul-de-sac is minimum 50' radius. SFC Land Use Code, Article V, Section 8.2.1d, (cul-de sacs over 250' in length).

#### **Street Signs/Rural Address**

*Section 901.4.4 Premises Identification (1997 UFC) Approved numbers or addresses shall be provided for all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property.*

*Section 901.4.5 Street or Road Signs. (1997 UFC) When required by the Chief, streets and roads shall be identified with approved signs.*

Buildings within a commercial complex shall be assigned, post and maintain a proper and legible numbering and/or lettering systems to facilitate rapid identification for emergency responding personnel as approved by the Santa Fe County Fire Marshal.

#### **Slope/Road Grade**

*Section 902.2.2.6 Grade (1997 UFC) The gradient for a fire apparatus access road shall not exceed the maximum approved.*

There are no slopes over 11% in the current master plan layout.

#### **Restricted Access/Gates/Security Systems**

*Section 902.4 Key Boxes. (1997 UFC) When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life-saving or firefighting purposes, the chief is authorized to require a key box to be installed in an accessible location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the chief.*

All gates on a public way shall be operable by means of a key or switch, which is located in a Knox Lock entry system, keyed to the Santa Fe County system. Details, information and forms are available from the Fire Prevention Division

To prevent the possibility of emergency responders being locked out, all access gates shall be operable by means of a key or key switch, which is keyed to the Santa Fe County Emergency Access System (Knox Rapid Entry System). Details and information are available through the Fire Prevention office.

A final inspection by this office will be necessary to determine the applicability of the installation of the Knox lock access system in regards to emergency entrance into the fenced area. Should it be found suitable for such, the developer shall install the system.



## Fire Protection Systems

If at a later date there is development of more structures or changes in use this property maybe required to meet the fire flow required for property protection of said development structures existing and new.

## Automatic Fire Protection/Suppression

This office highly recommends the installation of an automatic fire suppression system as per 1997 Uniform Fire Code, Article 10 Section 1003.2.1 and the Building Code as adopted by the State of New Mexico and/or County of Santa Fe. Required automatic fire suppression systems shall be in accordance with NFPA 13 and 13D Standard for automatic fire suppression systems. It is recommended that the homeowner contact their insurance carrier to find their minimum requirements.

## Fire Alarm/Notification Systems

Automatic Fire Protection Alarm systems are highly recommended per 1997 Uniform Fire and Building Codes as adopted by the State of New Mexico and/or the County of Santa Fe. Required Fire Alarm systems shall be in accordance with NFPA 72, National Fire Alarm Code for given type of structure and/or occupancy use. Said requirements will be applied as necessary as more project information becomes available to this office during the following approval process.

## Fire Extinguishers

Article 10, Section 1002.1 General (1997 UFC) *Portable fire extinguishers shall be installed in occupancies and locations as set forth in this code and as required by the chief. Portable fire extinguishers shall be in accordance with UFC Standard 10-1.*

Portable fire extinguishers shall be installed in occupancies and locations as set forth in the 1997 Uniform Fire Code. Portable fire extinguishers shall be in accordance with UFC Standard 10-1.

## Life Safety

Fire Protection requirements listed for this development have taken into consideration the hazard factors of potential occupancies as presented in the developer's proposed use list. Each and every individual structure of a commercial or public occupancy designation will be reviewed and must meet compliance with the Santa Fe County Fire Code (1997 Uniform Fire Code and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code, which have been adopted by the State of New Mexico and/or the County of Santa Fe.

## General Requirements/Comments

### Inspections/Acceptance Tests

Shall comply with Article 1, Section 103.3.2 - New Construction and Alterations of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

The developer shall call for and submit to a final inspection by this office prior to the approval of the Certificate of Occupancy to ensure compliance to the requirements of the Santa Fe County Fire Code (1997 UFC and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code.

### Permits

As required



**Final Status**

Recommendation for Master/ Preliminary Development Plan approval with the above conditions applied.

*Renee Nix, Inspector*

*Renee Nix*  
Code Enforcement Official

3-20-13  
Date

Through: David Sperling, Chief/Fire Marshal

File: DEV/Leon&DianaRichter/032013/E

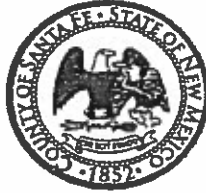
Cy: Buster Petty, Fire Marshal  
Jose Larranaga, Land Use  
Applicant  
District Chief Edgewood  
File



Daniel "Danny" Mayfield  
Commissioner, District 1

Miguel M. Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

June 11, 2013

To: Jose E. Larrañaga, Commercial Development Case Manager

From: Karen Torres, County Hydrologist

Re: CDRC Case # Z/PDP/PDP 13-5080 Windmill Water - Master Plan and Variance  
Request: T10N, R7E Sections 34 and 35.

At the request of the Land Use Department a review of documentation regarding water rights associated with the well which currently serves the Windmill Water Development was performed. Water right documents were submitted to support the request for a variance to Article VII Section 6.4.1 entitled *Requirements for Water Availability Assessments* for a non-residential development that uses more than 0.25 acre-feet per year or in which the applicant obtains water other than through a 72-12-1 well.

Though staff has not received all requested water right documents based on what was submitted it appears the applicant has a valid and existing water right for no more than 1.78 acre-feet per year for commercial purposes associated with a bottling and purification facility. The final amount of water rights will be recognized by certificate and license from the State Engineer which is pending.

### **Project Overview**

This commercial development is a potable water supply service which uses water from an on-site commercial well and is bottled in a processing plant located on the same property. The applicant sells and delivers bottled water and other beverages to residences and businesses in the Edgewood area. There is also a self-service water dispenser located on the property.

### **Summary of Water Rights associated with well E-6324**

Staff has requested that the applicant submit documentation regarding the application to appropriate water from well E-6324 filed on October 30, 1995. Though this request has been diligently pursued by the applicant's agent as of the date of this memo all water right documents have not been submitted for staff to review. The following summary is based on documentation that was received.

On December 14, 1995 a letter from the Office of the State Engineer to Leon and Diana Richter



verified that Application No. E-6324 for Permit to Appropriate Underground Water was filed on October 30<sup>th</sup>, 1995. Notice of this application was advertised in the Albuquerque Journal for three consecutive weeks in November of 1995 and no protests to the granting of the application were received.

On July 7, 2004 and May 9, 2005 applications for Extension of Time to file Proof of Application of Water to Beneficial Use were filed. Both applications were approved by the Office of the State Engineer and time to file necessary document was extended until May 15, 2008.

On September 5, 2006 an application for permit to change location of well E-6324 was filed with the Office of the State Engineer. This application was approved with the following conditions of approval:

1. Permit Number: E-6324  
Priority Date: October 30, 1995  
Source of Water: Groundwater  
Point of Diversion: SW ¼ NW ¼ NW ¼ of Sec 35, Township 10 North, Range 7 East  
Purpose of Use: Commercial  
Place of Use: Bottling and water purification facility located at  
2042 Hwy 333 Edgewood, NM 87015  
Amount of Water: 3.0 acre-feet per annum
2. Total diversion of water from the well shall not exceed 3.0 acre-feet
3. All water diverted from well to be measured with a totalizing meter
4. Submission of quarterly meter readings
5. Plug original well E-6324
6. File Proof of Completion of Well form by May 15, 2008
7. File Proof of Application of Water to Beneficial Use by May 15, 2008.

On May 15, 2011 the Final Inspection and Report of Beneficial Use was filed with the Office of the State Engineer. This report documents a maximum of 1.78 acre-feet of water was put to beneficial use from the permitted commercial activities in 2007.

Issuance of Certificate and License are pending with the Office of the State Engineer but based on the reported beneficial use of water the applicant may not exceed 1.78 acre-feet of water per year for current and future commercial use of well E-6324.

### Conclusion

Based on review of water right documentation it appears the applicant has a valid and existing water right for no more than 1.78 acre-feet per year for commercial purposes associated with a bottling and purification facility.

If you have any questions, please feel free to call me at 992-9871 or email at [ktorres@co.santa-fe.nm.us](mailto:ktorres@co.santa-fe.nm.us)



Daniel "Danny" Mayfield  
Commissioner, District 1

Miguel M. Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

To: Jose E. Larrañaga, Commercial Development Case Manager

From: Karen Torres, County Hydrologist (P)

Date: June 11, 2013 (Revised July 15, 2013)

Re: CDRC Case # Z/PDP/PDP 13-5080 Windmill Water - Master Plan and Variance

Request: T10N, R7E Sections 34 and 35.

At the request of the Land Use Department a review of documentation regarding water rights associated with the on-site well which currently serves the Windmill Water Development was performed. Water right documents were submitted to support the request for a variance to Article VII Section 6.4.1 entitled *Requirements for Water Availability Assessments* for a non-residential development that uses more than 0.25 acre-feet per year or in which the applicant obtains water other than through a 72-12-1 well.

The applicant has a valid and existing water right for no more than 1.78 acre-feet per year for commercial purposes associated with a bottling and purification facility. This water right is recognized under permit E-6324 and subsequently perfected though demonstrated of beneficial use of water. The final amount of water rights will be formally recognized by certificate and license from the State Engineer which is pending.

### Project Overview

This commercial development is a potable water supply service which uses water from an on-site commercial well and is bottled in a processing plant located on the same property. The applicant sells and delivers bottled water and other beverages to residences and businesses in the Edgewood area. There is also a self-service water dispenser located on the property.

### Summary of Water Rights associated with well E-6324

The following is a summary of the history and current status of water rights associated with the development request

On October 30, 1995 Leon and Diana Richter filed an Application for Permit to appropriate the Underground Waters of the State of New Mexico in the amount of 3.0 acre-feet of water from existing well E-3463 for the purposes of purifying and bottling water for resell. This application was approved on June 6<sup>th</sup>, 1997 with the following conditions of approval:

1. This application is approved out of priority of receipt of prior applications presently pending before the State Engineer for the appropriation of water and the State Engineer reserves the right



to take action on these prior applications without regard to this permit.

2. Well No. E-3463 is hereby renumbered E-6324
3. Diversion of water shall not exceed 3.0 acre-feet per annum for commercial bottled water purposes.
4. All water diverted from well to be measured with a totalizing meter.
5. Submission of monthly meter readings.
6. File Proof of Completion and Application of Water to Beneficial Use and Proof of Completion of Well form by May 15, 2001.

On July 7, 2004 and May 9, 2005 applications for Extension of Time to file Proof of Application of Water to Beneficial Use were filed. Both applications were approved by the Office of the State Engineer and time to file necessary document was extended until May 15, 2008.

On September 5, 2006 an application for permit to change location of well E-6324 was filed with the Office of the State Engineer. This application was approved with the following conditions of approval:

1. Permit Number: E-6324  
Priority Date: October 30, 1995  
Source of Water: Groundwater  
Point of Diversion: SW ¼ NW ¼ NW ¼ of Sec 35, Township 10 North, Range 7 East  
Purpose of Use: Commercial  
Place of Use: Bottling and water purification facility located at  
2042 Hwy 333 Edgewood, NM 87015  
Amount of Water: 3.0 acre-feet per annum
2. Total diversion of water from the well shall not exceed 3.0 acre-feet
3. All water diverted from well to be measured with a totalizing meter
4. Submission of quarterly meter readings
5. Plug original well E-6324
6. File Proof of Completion of Well form by May 15, 2008
7. File Proof of Application of Water to Beneficial Use by May 15, 2008.

On May 15, 2011 the Final Inspection and Report of Beneficial Use was filed with the Office of the State Engineer. This report documents a maximum of 1.78 acre-feet of water was put to beneficial use from the permitted commercial activities in 2007.

Issuance of Certificate and License are pending with the Office of the State Engineer but based on the reported beneficial use of water the applicant may not exceed 1.78 acre-feet of water per year for current and future commercial use of well E-6324.

## Conclusion

Based on review of water right documentation the applicant has a valid and existing water right for no more than 1.78 acre-feet per year for commercial purposes associated with a bottling and purification facility.

If you have any questions, please feel free to call me at 992-9871 or email at [ktorres@co.santa-fe.nm.us](mailto:ktorres@co.santa-fe.nm.us)



Daniel Mayfield  
Commissioner, District 1

Miguel Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Liz Stefanics  
Commissioner, District 4

Kathy Holian  
Commissioner, District 5

Katherine Miller  
County Manager

**PUBLIC WORKS DIVISION  
MEMORANDUM**

**Date:** April 22, 2013

**To:** Jose Larranaga, Land Use Department

**From:** Paul Kavanaugh, Engineering Associate Public Works   
Johnny P. Baca, Traffic Manager Public Works 

**Re:** **CDRC CASE # Z/PDP 13-5080 Windmill Water Master Plan and  
Preliminary Development Plan**

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The referenced project has been reviewed for compliance of the Land Development Code, and shall conform to roads and driveway requirements of Article V (Subdivision Design Standards), Section 8.1 (General Policy on Roads), in which the roadway/driveway needs to conform. The project is located east of Old Route 66/ New Mexico 333 and south of the town of Edgewood, located within the Traditional Community of Edgewood and situated within the Santa Fe County Zoning Jurisdiction and located within Sections 34 and 3, Township 10 North, Range 7 East. The applicant is requesting a Master Plan and Preliminary Development Plan approval for a commercial site within a Local or Small Scale District located on 2.84 acres.

**Access:**

The applicant is proposing to use an existing driveway with an approximate fifty (50') foot entrance onto an eighteen (18') foot asphalt driveway to serve the site. The existing access connects with Old Route 66/ New Mexico 333 Highway.

**Conclusion:**

Public Works has reviewed the submittal and feels that staff can support the above mentioned project for a Master Plan and Preliminary Development Plan Approval with the following conditions;

1. Applicant must provide Santa Fe County with an approved Access Permit from New Mexico Department of Transportation (NMDOT) for the proposed development.
2. Applicant shall provide a R1-1, 30 x 30 Type 4, Prismatic Sheeting or better as per Manual on Uniform Traffic Control Devices (MUTCD).
3. Applicant shall maintain a minimum of thirty (30') feet departure sight triangles at entry of development.
4. Applicant shall address all items mentioned above prior to Final Development Plan Approval.



SANTA FE COUNTY PLANNING DEPARTMENT  
TRANSPORTATION PLANNING

April 3, 2013

To: Jose E. Larranaga, Commercial Development Case Manager

From: Erick J. Aune, Senior Transportation Planner

Re: Case# Z/PDP 13-5080 Windmill Water Master Plan -Submitted March 12, 2013 – Review  
Due April 17, 2013

I have reviewed the submitted project for technical accuracy and compliance with the Santa Fe County Land Development Code with the following comments.

**Article V 5.5.2 Master Plan Submittals**

**(b) 2) Easements, Location, Width and purpose and 3) Streets or Roads on and immediately adjacent to the tract, name and right of way width.**

*Comments: Easements have been depicted on the site plans. Access to State Road 333 shall be governed by the NMDOT. Roads and right of way widths have been shown on the site plan.*

**7) Proof of legal access from a county or state road as required by the Code.**

*Comments: A 60' access easement off of State Rd 333 followed by a 25' access easement to the property has been submitted with the application.*

**d. Master Plan map(s) 1) Proposed major vehicular and pedestrian circulation systems.**

*Comments: Given the small scale nature of the proposed business and any other potential small scale business the existing drive is sufficient to accommodate potential traffic flows.*

**g. Master plan report which includes the following: 5) A written preliminary traffic report prepared by a licensed traffic engineer or other qualified expert acceptable to the Code Administrator.**

*Comments: It is unclear whether a licensed engineer provided the Site Threshold Assessment, however given the data provided and given the assessment review shall be determined by the NMDOT what has been submitted is sufficient for our review.*

**Article 5 – Section 7.1 Preliminary Development Plan 7.1.2 d) Off-Street parking and loading or dumping facilities, here applicable and e) internal vehicular and pedestrian circulation, and ingress and egress and K) easements, rights-of-way and street design.**

*Comments: Parking and circulation plans have been submitted including a "Fire Turn Detail" Submitted plans meet the requirements of the code.*

**Article 4.4 Design Standards and Review Criteria**

*Comments: The requisite standards applicable to access are covered adequately in the submittal*

**Summary**

The Windmill Water Master Plan has been reviewed for technical accuracy and compliance with the Santa Fe Land Development Code in relation with transportation related issues and has been found to be in compliance.

Erick J. Aune AICP, Senior Transportation Planner  
102 GRANT AVENUE · SANTA FE, NEW MEXICO · 87501  
PHONE (505) 986.6214 E-MAIL [eaune@santafecounty.org](mailto:eaune@santafecounty.org)

NBD - 86



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## SANTA FE COUNTY INTEROFFICE MEMORANDUM

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**TO:** JOSE LARRANAGA, CASE MANAGER  
**FROM:** ROBERT GRIEGO, PLANNING MANGER  
**SUBJECT:** MP/PDP  
**DATE:** 5/7/2013  
**RE:** CDRC CASE # Z/PDP 13-5080 WINDMILL WATER MASTER PLAN

---

Planning Division has reviewed the Windmill Water Inc. Master Plan and Preliminary Development Plan report dated March 8, 2013. This request is for commercial zoning for a property in the Edgewood Traditional Community District. The property is on a 2.84 acre tract and located 500 feet from Old Route 66 and I-25.

Summary:

This property is in the Edgewood Traditional Community District as identified in Article VI Section 4.2 of the LDC. Uses allowed in neighborhood center districts are allowed anywhere within the boundaries of a Traditional Community, provided that any requirements of the Code, other than requirements concerning location of neighborhood center districts are met. Article III of the LDC allows Mixed Uses anywhere inclusive of the boundaries of the village, provided the performance standards and criteria set forth by the Code are met and allows commercial uses in neighborhood or small scale center districts, which are or may be located at intersections of local roads or in traditional community areas.

Staff Recommendation:

Approve CDRC CASE # Z/PDP 13-5080 Windmill Water Master Plan to allow a small scale commercial use which includes the existing residence and the bottling and distribution of water.

NBD-87



## MEMORANDUM

**DATE:** March 15, 2013

**TO:** Jose Larranaga, Commercial Development Case Manager

**FROM:** Miguel Romero, Development Review Specialist Senior

**VIA:** Penny Ellis-Green, Land Use Administrator  
Vicki Lucero, Building and Development Services Manager  
Wayne Dalton, Building and Development Services Supervisor

**FILE REF.:** Case # MPZ/PDP 13-5080 Windmill Water INC.

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### REVIEW SUMMARY:

The Applicant requests approval of Master Plan Zoning and Preliminary Development Plan to allow a small scale commercial use of a domestic water supply service on 2.84 acres, in accordance with the **Land Development Code 1996-10** and all pertinent Ordinances. The Water Harvesting and Landscaping Plan for Windmill Water INC. has been reviewed for compliance with the **Land Development Code 1996-10, Article III Section 4.4.4.f. 4** (landscaping Plan), **4.4.4f.11** (Landscaping for Parking Lots), **4.4.4 f. 10** (Landscaping for Road Frontage Areas) and **Ordinance 2008-4** (Water harvesting).

### Landscaping

The Applicant has not provided a general description for the landscaping concepts for this project and this segment of the landscaping plan does not comply with **Article III Section 4.4.4.f 4** (Landscaping Plan). In order to meet Code/Ordinance and for Master Plan Zoning and Preliminary Development, the Applicant will need to provide the following if applicable.

(a) a landscaping map drafted to scale describing the lot (s) or parcel (s), the development site, proposed structures and other development, the designated landscape areas, including re-vegetation areas; private gardens are not included;

(b) within the designated landscape areas, including re-vegetation area, the plan shall locate and label:

1. existing vegetation which will be retained by type and size;
2. existing vegetation which will be transplanted, or removed by type and size; and
3. location, type, and size of plants to be installed;

NBD-88



- (c) all plant materials to be retained or installed shall be located and labeled, footprint according to the spread of the plants at maturity;
- (d) a list of the type and number of plants to be retained and installed, with common and botanical names, showing the existing size of specific trees and plants by approximate width of canopy, spread and caliper or gallon size at time of planting and the size of the plant material at maturity in height and width;
- (e) methods and details for protecting existing vegetation during construction;
- (f) the location and quantity of all other materials to be used as part of the landscape treatment; planting and installation details as necessary to show conformance with all standards;
- (g) a description of the proposed system of irrigation including the use of on-site storm water collection, drip irrigation, recycled water or other systems;
- (h) methods for protecting required landscaping from damage by automobiles and run off containing salts from paved areas;
- (i) the purpose of each plant material to be used, e.g. for screening, ornament, shade or other purpose;
- (j) a description of proposed structures or other buffering devices, such as walls, fences or earth berms, including location, height, building materials and/or exterior finish treatment which are part or the landscape treatment.
- (k) a water use budget which includes the type of vegetation, the type of irrigation system (drip, flood, or sprinkler), the area in square feet that will be planted in each type of vegetation and the irrigation application requirement in gallons per square foot per year, for each type of vegetation.
- (l) an estimate of the cost of installation of the landscape materials; and
- (m) the landscaping plan submitted with the preliminary development plan for an individual use shall be in conformance with the approved master plan for landscaping.
- (n) Landscape areas shall be designated only on the development site within the Buildable Area of the lot and shown on the development plan and where applicable, the plat.

Due to the nature of the proposed development **Article III 4.4.4f.11** (Landscaping for Parking Lots) and **Article III 4.4.4 f. 10** (Landscaping for Road Frontage Areas) will not be required for review.

Final Development Plan shall require that all landscaping requirements of **Article III Section 4.4.4f 4 a-n** (Landscaping Plan) of the code for commercial development are met.

### **Water Harvesting**

The Applicant proposes to construct a 1,200 square foot building to their existing 3,289 square foot residence on the site (phase II). **Ordinance 2008-4** (Water Harvesting) requires: that commercial structures collect all roof drainage into a cistern; the size of the cistern shall be calculated by multiplying the total roofed area by 1.50 gallons. The Applicant has not provided a water harvesting plan to show how roof drainage will be collected. No cistern or pump detail has



been submitted along with the MPZ/PDP. In order to meet Code/Ordinance and for Master Plan Zoning and Preliminary Development, the Applicant will need to provide the following.

1. Conceptually the Applicant will need to provide a cistern to capture all roof drainage from all structures on the property.
2. Conceptual Water Harvesting Plan for existing structures;
  - a. existing residence (3,289 sq. ft.) and phase II residential addition (1200 sq. ft.)
  - b. existing garage (1,064 sq. ft.)
  - c. existing bottling plant (1,188 sq. ft.)
  - d. existing shed (100 sq. ft.)
  - e. existing office trailer (224 sq. ft.)
  - f. existing water dispenser (80 sq. ft.)
3. A Landscaping Plan providing a schedule specifying conceptual methods, to include type, size, and location of vegetation and non-vegetative landscape material, and a preliminary description of the irrigation system to be used.
4. Xeriscape principles: Water requirements shall be reduced by: Article III Section 4.4.4 f. 6 a-c.
5. Final Development Plan will require that a Cistern and Pump detail be submitted.
6. Type of irrigation system that will be used to serve all landscaped areas.

**Additional Comments**

**Due to the nature of the comments contained herein, additional comments may be forthcoming upon receipt of the required information.**

NBD-90



## MEMORANDUM

**DATE:** April 2, 2013

**TO:** Jose Larranaga, Commercial Development Case Manager

**FROM:** John Lovato, Senior Development Review Specialist

**VIA:** Penny Ellis-Green, Land Use Administrator  
Vicki Lucero, Building and Development Services Manager  
Wayne Dalton, Building and Development Services Supervisor

**FILE REF:** CDRC CASE # MP/PDP 13-5080 Windmill Water Master Plan / Preliminary Development Plan

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### REVIEW SUMMARY

The referenced project has been reviewed for compliance with the Santa Fe County Land Development Code. The request is for Master Plan Zoning and Preliminary Development Plan approval to allow for a small scale commercial use which includes an existing residence and the bottling and distribution of water.

### Terrain Management

As a result of the man-made slopes from previous construction and grading of the residence, the property has 20%-30% cut and fill slopes. The natural slopes of the property range from 5%-8%. As a result, the site conforms to Article VII, Section 3.3 (Terrain Management Plan.)

### Storm Drainage and Erosion Control:

The Applicant's proposal shows an existing topography and soils plan, but does not show existing ponding. This can be shown on existing conditions sheet (P-3). With the inclusion of ponding, the submittal is in conformance of Article VII, Section 3.4.6 and Ordinance 2008-10 Flood Damage Prevention and Stormwater Management Ordinance. The Applicant shall include a pond detail prior to final development plan approval.

NBD-91



## MEMORANDUM

**DATE:** April 23, 2013

**TO:** Jose Larranaga, Commercial Development Case Manager

**FROM:** Amanda Romero, Senior Development Review Specialist

**VIA:** Vicki Lucero, Building and Development Manager  
Wayne Dalton, Building and Development Services Supervisor

**FILE REF.:** CDRC CASE # 13-5080 MP/PDP Windmill Water, Inc.

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### REVIEW SUMMARY

#### ARCHITECTURAL, PARKING, LIGHTING, AND SIGNAGE:

The referenced project has been reviewed for compliance with the Santa Fe County Land Development Code. The Applicant requests Master Plan Zoning / Preliminary & Development Plan Approval for small scale commercial and residential use. The Application does not meet the criteria set forth in Article VIII (Sign Regulations) and Article III, Section 4.4.4 h (Outdoor Lighting). The Application does not meet the criteria set forth in Article III, Section 9. (Parking Requirements)

#### PARKING:

The Applicant has 2 existing parking spaces 1 being handicap. The Applicant shall provide 1 parking space per employee plus 1 parking space per 400 square feet of commercial area. Based on 2,162 square feet of commercial space and 1 employee the Applicants shall have a total of 6 parking spaces. The Applicant shall provide parking turnaround at self-serve kiosk. The Applicant also shall provide parking area for delivery truck. Staff has determined that the parking element of the Application is incomplete and does not meet the criteria set forth in Article III, Section 9 (Parking Requirements).

NBD-92



### **ARCHITECTURAL:**

The Applicant proposes to utilize the existing residence 2,220 square feet, garage 1,064 square feet, bottling plant 1,188 square feet, office 224 square feet, existing storage shed 100 square feet, self-service dispenser 50 square feet. The Application complies with Article III, Section 4.4 (Design Standards).

### **SIGNAGE:**

The Applicant is proposing to place a 3' X 4' sign within the utility/access easement near State Road 333. All proposed signage must be located on the property. Off-Site signage is prohibited in Santa Fe County. Staff has determined that the signage element of the Application does not comply with Article VIII, Section 7.15 and 7.16 (Sign Regulations).

### **LIGHTING:**

The Applicant is proposing to utilize existing outdoor lighting on the property. The Applicant currently has two pole mounted lights and three building mounted lights. The Applicant shall provide cut-sheets and pole diagram with dimensions for all existing lighting. Staff has determined that the lighting element of the Application does not comply with Article III, Section 4.4.4 h and Table 3.1. (Lighting)

**Due to the nature of the comments contained herein, additional comments may be forthcoming upon receipt of the required information.**





*SantaFe County Land Use Administrator  
P. O. Box 276, Santa Fe, NM 87504-0276  
joselarra@co.santa-fe.nm.us  
(505) 986-6225  
Z/PDP 13-5080*

*Community Development Review Committee*

*To whom it may concern*

*We have become aware of the issue of Windmill water being required to conform to Santa Fe County regulations after having been in their present location for many years.*

*We have known Leon and Diana Richter for many years. They are hard working professionals who regularly give back to our community.*

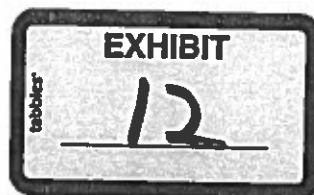
*Rich Ford in Edgewood has used their services for over 13 Years and I use them in Albuquerque in my home.*

*Both of them left well paying jobs to start their small business because they saw a need for a better water supply for us and surrounding areas. Having run a small business ourselves we understand how difficult it is to comply with unnecessary regulations and still make a small profit.*

*Please consider every option to help them maintain their business. It would be a terrible disservice to lose them and all they bring to our community.*

*Thank you for you consideration,*

*Dennis Dupler*  
President: Rich Ford Sales



NBD-94  
NEW MEXICO'S TRADINGEST FORD DEALER  
PARTS SALES AND SERVICE / SUZU TRUCKS



April 25, 2013

Community Development Review Committee (CDRC)  
ATTN: Jose Larra  
P. O. Box 276  
Santa Fe, NM 87504-0276

RE: Z/PDP 13-5080 – WINDMILL WATER, INC.

TO WHOM IT MAY CONCERN:

I have been a customer of subject business since they "opened" their delivery truck door at my home, dating back to 1996. Leon had just resigned from his full time position with Bernalillo County Sheriff's Office to devote all of his time and energy to the development and ever-increasing number of customers who wanted his service. The business, from inception, has been "run" by his entire family, including his wife, Diana, and son, Collin, and daughter, Leanna. Everyone had their own "special" job, but **EVERYONE** helped in bottling the water every day at 5:00PM. Even when their staff number decreased (Collin got married and has a family to provide for) (Leanna is attending college fulltime), Leon and Diana continued to do all of the work PLUS a scheduled delivery route that was a fulltime job by itself! These people could be (are!) a perfect example of attaining their goal of developing a thriving business and being known for great service and no one can even come close to matching their product! They have reached and far surpassed their original goals and continue to give personal, attention to each customer's needs and/or requirements, delivery on time all of the time, very competitive pricing, and most of all their product is always fresh and, depending on the time of year, is delivered icy cold at no extra charge!

The Richter family is of the highest moral character and their contributions to our communities are unending. Among them, for many years in December, they would accept toys and other Christmas items for several of the shelters in Albuquerque, and would deliver them by Christmas to the shelters. They are active in their church and they *live* the teachings of their faith---not just talk about them! In my opinion, they are an exceptional American family because they do live and lead their lives in an exemplary manner, as do their children..

In closing, the most important thing to me is knowing exactly where my bottled water came from! And to that I say, from a well high in the mountains of New Mexico! And, since the human body consists of 98% water, I am so very grateful to know that my 98% IS **WINDMILL WATER!**



Kay Sorrels  
12906 Alice Ave., NE  
Albuquerque, NM 87112-6240  
505-293-1669  
505-299-0300 – fax  
[rkaso@comcast.net](mailto:rkaso@comcast.net)

NBD-95



Jose Larranaga

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From: labitt@aol.com  
Sent: Tuesday, April 16, 2013 2:09 PM  
To: Jose Larranaga  
Subject: Z/PDP 13-5080

Categories: Red Category

Dear Mr. Larra,

I would like to share a little bit with you in regards to Windmill Water, and Leon and Diana Richter. Our family has enjoyed the wonderful benefits of Windmill Water for several years. Their service to the community has been appreciated as well. Mr. and Mrs. Richter are very conscious of the needs of the community, of the benefits of serving the community in more ways than just providing excellent water. They are quick to help out with providing water for events, and for special needs, and have often donated water for school events, special needs, and more. They are very aware of the community, and their place in the community.

Our community has benefitted several ways by having their business here. Not only is the water a benefit, but their service, their involvement in the community, and their honesty are all a benefit. From the first day of business until today, you can be assured that they are doing all that they can to provide excellent service, and a product that is beneficial. Small business owners work hard to survive in today's economy, and it's encouraging to see them thrive. As a community, a town, a county, and a state, we need to be supportive of them, as well as other small business owners.

Sincerely,

Lucretia Bittner



Jose Larranaga

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From: Harrington, Margaret <harrington@law.unm.edu>  
Sent: Wednesday, April 17, 2013 3:27 PM  
To: Jose Larranaga  
Cc: 'windmillwater@comcast.net'  
Subject: Windmill Water; Case #Z/PDP 13-5080

Categories: Red Category

Dear Community Development Review Committee:

We have been customers of Windmill Water since we moved here 6 years ago. Prior to that we had water delivered for 5 years in Spokane, Washington, so we are not unfamiliar with water delivery services. Windmill Water has been consistently responsible and very respectful; no deliveries have ever been skipped; if there isn't a product we ordered available still on the truck, they will work out a way to get it to us within the week – at their inconvenience. All dealings with them have shown an integrity that would be worthy of emulation by all business owners.

We have communicated with them many times and have always been treated professionally – even kindly – and I never dread a call because there is going to be someone nasty with their company I have to talk to. I smile when I see caller ID and know Diana is going to be on the other end.

As part of our relocation we have moved several times within the city and they have helped us come up with the most convenient location for storage of product. Our home now sits at the top of a hill which their truck cannot climb. We offered to find a different place on our property for exchange, but Leon insisted the most convenient place for us would be by our door – he's correct, but it is at a tremendous inconvenience to him, as we place large orders. Our home now has a few cats that roam at night and we didn't realize they were spraying the 5 gallon empties. Leon brought it up in such a courteous and professional manner, when he could have been abrupt and annoyed, yet there has never been a single hint of arrogance or a snarky attitude from them – and we are almost always the ones that need to tweak something on our end. They are professional and above reproach. We enjoy the opportunities we do have to speak with them because they are pleasant people. I know they are hard-working and it would be a travesty to allow a local business be put into financial circumstances that would endanger their continued success. We do NOT want Culligan. We support local businesses, family owned and family run, not a corporation. They are New Mexicans – be on their side.

We depend on their artesian well water and both drink and cook with Windmill Water. Their prices are affordable, which was a part of our choice, and I would quite disappointed to hear you forced them to change their zoning to comply with your master plan. They haven't moved their business location, they were accepted in Edgewood as an existing home business, they were accepted in Santa Fé County itself as a home business. It appears to be more a response from the influence of a friend who is affiliated with the gravel pit and who wants to slap Windmill Water for objecting to blasting. I know that is cynical, but, unfortunately, New Mexico has a reputation for political mutual back-scratching and must be above even a shadow of doubt in all their dealings. If there were to ever surface that this had anything at all to do with your decision, the ramifications would undoubtedly be most unwelcome as continuing bad publicity for our beloved state. Please grandfather them in and make it possible for them to support their families and run their home business. You have the power – do the right thing.

*Margaret Harrington*



Margaret Harrington  
Faculty Support  
UNM School of Law  
MSC11 6070  
Albuquerque, NM 87131-0001  
(505) 277-7296 office  
(505) 277-5024 fax  
Harrington@law.unm.edu



## Jose Larranaga

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From: DckrMrkVIII@aol.com  
Sent: Thursday, April 18, 2013 2:29 PM  
To: Jose Larranaga  
Cc: windmillwater@comcast.net  
Subject: Zoning of Windmill Water, INC .-- RE: Z/PDP 13-5080

Categories: Red Category

To Whom it May Concern:

I am a neighbor of Leon and Diana Richter, owners of Windmill Water, Inc., living approximately one-fourth mile to the northeast of them. I have lived at this location for over twenty five years, which is a few years longer than Windmill Water, Inc. has been in business at it's location. During the time the Richter's have been in business, they have operated their business in a very professional manner, making sure that they do not disturb their neighbors with loud or late night activities. I only observe activity at their business when I am walking on my property, seeing a customer or two coming or going or seeing their truck leave or return home. Over the years I have not observed an increase in activity, so if they qualified for a home business occupation use permit with Santa Fe County then, they should still be classified that way. Needless to say, but in the economic times we live in, it is difficult for any small business to survive without incurring the additional expense of going through Commercial Zoning.

Respectfully Submitted,

Ural A. Decker  
2059 Old U.S. 66  
Edgewood, NM 87015



## Jose Larranaga

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From: Roni Merbler <ronikm@q.com>  
Sent: Thursday, April 18, 2013 4:57 PM  
To: windmillwater@comcast.net; Jose Larranaga  
Subject: #Z/PDP 13-5080

Categories: Red Category

Dear Windmill Water AND Santa Fe County,

Regarding #Z/PDP 13-5080,

My family depends on being supplied at a reasonable cost, the quality water service that Windmill Water supplies. If the zoning changes for Windmill Water to be mandated that they become a commercially zoned business, the water service will likely become too expensive for us to continue being supplied by this wonderful company. Windmill Water INC. is a family owned and operated business, servicing our rural area as a cost effective way to drink good, quality water, and we completely support the way their business has been run for many years, under a home business occupation use permit with Santa Fe County. We are an area of lower income families who depend upon this water service. Please do not mandate that Windmill Water change their current status of home business occupation use permit.

I am available for comment at your request.

Sincerely,

Roni Merbler

*Roni Merbler*

CRS, ABR  
Broker Associate  
Signature Southwest Properties  
6745 Academy , NE Suite C  
Albuquerque, NM 87109  
505-259-9704



Jose Larranaga

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From: CARROLL G BASSETT <carmar71@msn.com>  
Sent: Wednesday, April 24, 2013 2:41 PM  
To: Jose Larranaga  
Subject: Z/PDP 13-5080

Categories: Red Category

Santa Fe County Land Use Commissioner:

We have become aware of the issue of Windmill water being required to conform to Santa Fe County regulations after having been in their present location for many years.

We have known Leon and Diana Richter for many years. They are hard working professionals who regularly give back to our community. Both of them left well paying jobs to start their small business because they saw a need for a better water supply for us and surrounding areas.

Having run a small business ourselves we understand how difficult it is to comply with unnecessary regulations and still make a small profit. Please consider every option to help

them maintain their business. It would be a



terrible disservice to loose them and all they  
bring to our community.

Thank you for you consideration,

Carroll and Mary Bassett



Jose Larranaga

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From: HughesSteelaes@aol.com  
Sent: Monday, April 29, 2013 3:25 PM  
To: Jose Larranaga  
Cc: windmillwater@comcast.net  
Subject: Windmill Water

Categories: Red Category

Dear Sir,

I am hoping you can help with the situation that Windmill Water and the owner's Leon and Diana Richter, find themselves in. Windmill Water is a small home based business that has served the community and surrounding area for almost 20 years quietly, honestly, and reliably providing safe, clean drinking water and paying gross receipts taxes. There is a great need for clean, great tasting water in this County so their service is valued.

Now it appears that after all these years, the small, home based business is being forced to become a commercial property. This is at extreme cost for the small business and comes with some regulations that just don't make sense in this instance. This is a well maintained home business that is already kept immaculate. I understand that there is a need for rules and regulations. If this were a new business coming in, maybe some of the zoning rules and regulations should be applied. However, once again, this is a business that has operated almost 20 years at this point, complying with food permits, water tests, inspections, etc. I beg you to allow common sense to rule and let Windmill Water continue to operate as they always have, quietly, honestly and reliably.

It is a real shame when so much of Santa Fe County's resources go towards making it difficult for a business that has always strived to operate in a honest and professional manner, when the use of those funds could be better applied to cleaning up the illegal activities within the County.

Your job is a tough one and I appreciate the good work you do.

Thanks,  
Annette E. Sloman  
Hughes And Associates, Inc.  
505-293-2824  
[HughesSteelaes@aol.com](mailto:HughesSteelaes@aol.com)



## Jose Larranaga

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**From:** Diana Richter <windmillwater@comcast.net>  
**Sent:** Monday, April 29, 2013 5:11 PM  
**To:** Jose Larranaga  
**Subject:** Fwd: Email to Santa Fe County

**Categories:** Red Category

RE: Case #Z/PDP 13-5080

Begin forwarded message:

**From:** David DiLorenzo <davidd@qualitydeal.com>  
**Date:** April 29, 2013, 5:06:54 PM MDT  
**To:** "'windmillwater@comcast.net'" <windmillwater@comcast.net>  
**Subject:** Email to Santa Fe County

Dear Jose Larra,

First I want to thank you for taking the time to read this email. I recently found out that Santa Fe Country may possibly change the property of Leon and Diana Richter from a home based business to a commercial based. I'm personally and respectfully asking that you reconsider making this change. Leon and Diana have been serving our auto businesses for many years. Their family run business is much like ours. He takes prides in what he does and it show in his personal touch and in his pricing of his product. With Leon and Diana being in business for over 20 years at this location, they have been able to provide for their family and the many different employees who have worked for them over the years. But a change to their property status will cause them to incur higher costs, which may cause them to have fewer employees and possibly having to raise their rates on the water that they sale. In our economy today, margins are becoming smaller and smaller, so keeping every cost down is very critical to staying in business. So I respectfully ask that you let Windmill Water remain a home based business, so they can continue to run their family business with the personal touch and the price for their water that is right.

Thank you for your consideration and understanding,  
David DiLorenzo  
Quality GMC Buick  
Quality Mazda  
(505) 765-1300  
(505) 247-7490 fax

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## Jose Larranaga

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**From:** Diana Ricter <windmillwater@comcast.net>  
**ent:** Monday, April 29, 2013 5:12 PM  
**To:** Jose Larranaga  
**Subject:** Fwd: Windmill Water

**Categories:** Red Category

RE: Case #Z/PDP 13-5080

Begin forwarded message:

**From:** [HughesSteelaes@aol.com](mailto:HughesSteelaes@aol.com)  
**Date:** April 29, 2013, 3:25:06 PM MDT  
**To:** [joselarra@co.santa-fe.nm.us](mailto:joselarra@co.santa-fe.nm.us)  
**Cc:** [windmillwater@comcast.net](mailto:windmillwater@comcast.net)  
**Subject:** Windmill Water

Dear Sir,

I am hoping you can help with the situation that Windmill Water and the owner's Leon and Diana Ricler, find themselves in. Windmill Water is a small home based business that has served the community and surrounding area for almost 20 years quietly, honestly, and reliably providing safe, clean drinking water and paying gross receipts taxes. There is a great need for clean, great tasting water in this County so their service is valued.

Now it appears that after all these years, the small, home based business is being forced to become a commercial property. This is at extreme cost for the small business and comes with some regulations that just don't make sense in this instance. This is a well maintained home business that is already kept immaculate. I understand that there is a need for rules and regulations. If this were a new business coming in, maybe some of the zoning rules and regulations should be applied. However, once again, this is a business that has operated almost 20 years at this point, complying with food permits, water tests, inspections, etc. I beg you to allow common sense to rule and let Windmill Water continue to operate as they always have, quietly, honestly and reliably.

It is a real shame when so much of Santa Fe County's resources go towards making it difficult for a business that has always strived to operate in a honest and professional manner, when the use of those funds could be better applied to cleaning up the illegal activities within the County.

Your job is a tough one and I appreciate the good work you do.

Thanks,  
Annette E. Sloman  
Hughes And Associales, Inc.  
505-293-2824  
[HughesSteelaes@aol.com](mailto:HughesSteelaes@aol.com)



## Jose Larranaga

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**From:** Ashley M. Biggers <ashley.biggers@gmail.com>  
**Sent:** Tuesday, April 30, 2013 10:08 PM  
**To:** Jose Larranaga  
**Cc:** Diana Richter  
**Subject:** Letter of Support #Z/PDP 13-5080

**Categories:** Red Category

To the office of Santa Fe County Land Use Administration:

We write in support of Windmill Water, Inc. (#Z/PDP 13-5080). We have been residential customers of Windmill Water since the launch of the business 18 years ago. We began taking filtered water because we felt it would ensure our health and the health of our animals. Of course, we enjoy the clean, refreshing taste, too.

Throughout our time as customers, we have consistently received exemplary customer service. Diana Richter is kind and prompt when we place orders and pay our bill. Leon Richter brings our deliveries on time, and orders are always correct. In addition, Leon is a joy to talk with during his deliveries, and regularly demonstrates his honesty and kindness. He brings a treat for our dog, Charlie, who is always as thrilled to see Leon as we are. Our dog would be quite pleased to become part of the Windmill Water team.

Leon and Diana Richter are fine small business owners and fine people.

The way they operate their business and conduct themselves in the community makes them models of entrepreneurship in New Mexico.

We value Windmill Water's excellent product and the service we receive. We look forward to continuing as their customers in the future.

Sincerely,  
Ashley M. Biggers and Kelley McCausland



## Jose Larranaga

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From: DWC <dntcoc@gmail.com>  
Sent: Thursday, May 02, 2013 7:48 AM  
To: Diana Richter  
Cc: Jose Larranaga  
Subject: Ref: Case #Z/PDP 13-5080

Categories: Red Category

To Whom it May Concern:

As noted in the subject line, I am writing with regards to Case #Z/PDP 13-5080.

I have been an East Mountain resident for over 19 years, and have purchased my drinking water from Windmill Water for nearly as long. As such, I can vouch for their product; clear, clean, sanitary, and reasonably priced filtered water, which is certainly something the county of Santa Fe has been unable to provide for its residents and taxpayers.

More importantly, I can vouch for the Richter family. These are hard working folks with good morals and ethics, strong values that the parents, Leon and Diana, have passed on to their children. They have been fine citizens, neighbors and good stewards of the land and their property. Anytime I am out and about and run into Leon, regardless of how busy he is at that moment he will always take a minute to come over to me, shake my hand and ask how I am. THAT is a good neighbor.

I am also quite certain that their family owned business has generated a much-needed revenue stream to the County of Santa Fe and the state of New Mexico through their taxes and gross receipts payments. They have also provided employment for local residents which is of critical importance in these difficult economic times. During my long association with scouting, the Richters opened the doors to their business for tours and demonstrations for the young men in the scouting program so that they might learn a bit about how a small family owned business is run, and what the infrastructure that supports it looks like. This is a perfect example of the kindness and generosity displayed by this family.

As a citizen of the great state of New Mexico, I ask that you provide this family the dignity of being able to continue their family owned business and provide the people of Edgewood and surrounding areas the product they provide, drinking water that can actually be enjoyed instead of just tolerated. Please accept this request and allow the Richter family to continue their business without the burden of the added cost of unnecessary bureaucracy. Thank you.

Sincerely,  
David W. Cocain  
985 County Line Rd.  
Edgewood, NM 87015  
505-550-8484



**Jose Larranaga**

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**From:** windmillwater@comcast.net  
**Sent:** Thursday, May 09, 2013 3:35 PM  
**To:** Jose Larranaga  
**Subject:** RE: #Z/PDP 13-5080 - Fwd: Reliable water service

**Categories:** Red Category

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**From:** "JOHN P. SILVESTER" <johnsilvesterdesigns@msn.com>  
**To:** [windmillwater@comcast.net](mailto:windmillwater@comcast.net)  
**Sent:** Thursday, May 9, 2013 2:45:19 PM  
**Subject:** Reliable water service

**RE: #Z/PDP 13-5080**

To whom it may concern,

For several years now, we have been regularly using *Windmill Bottled Water, Inc.* for supplying our domestic water bottle needs. Like many in the East Mountains of Albuquerque who do not have a working well to supply us with sanitary drinking and cooking water, we rely quite heavily on sources like *Windmill Bottled Water* for our everyday needs. We can always be sure that it *Windmill* is safe for our family and we know that we can use their service 24 hours a day and 365 days a year. And we know as well, that if we have a problem with their machine we can contact them on-site for help, which we have had a to do a time or two in the past. This has been the case even during our worst weather conditions when the temperature has been below zero.

Other water services have not been reliable to the extent that *Windmill Bottled Water, Inc.* has been. When other services failed, especially in sub zero weather conditions, we had no way of getting immediate help for getting water because we could not get in touch with them. We could at *Windmill* because of the way they pay attention to their equipment as well as to the needs of their customers. Other services have not been there for us in this way.

Windmill Bottled Water has become a very reliable family-owned business which is a friend and neighbor as well, by just being there for us. In today's harsh world rarely has there been this kind of service to rely on. We really do need these kind of people in our community. Please help them to continue their good work.

Sincerely, John and Sharon Silvester

John P. Silvester   
DBA: John Silvester and/or JOHN SILVESTER DESIGNS  
2 Ogaz Loop Edgewood,  
New Mexico 87015-7977  
Email: [johnsilvesterdesigns@msn.com](mailto:johnsilvesterdesigns@msn.com)  
Phone: 505.281.0609  
Fax: 505.286.1766  
Cell: 505.239.0376



## Jose Larranaga

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From: Marie Smidt-Hamic <mshamic@aol.com>  
Sent: Thursday, May 09, 2013 1:23 PM  
To: Jose Larranaga  
Subject: Windmill Water

Categories: Red Category

Dear Mr. Larra,

This is to notify you of my support for Leon and Diana Richter, owners of Windmill Water.

I have known the Richter's since 1997 when I worked with Mr. Richter for the Bernalillo County Sheriff's Office. They became dear friends of mine and have been a huge support to me through a very difficult time in my life. They are two jewels in your community. They will lend a hand to a friend or a stranger. I was privileged enough to know their two children as they were growing up. They are now two hard-working, humble, intelligent, wonderful contributors to society. Just like their parents.

I know them well, and have seen first hand their continual pursuit of unfaltering morals and values. They live by example and have made my life better with the pleasure of being a part of their lives.

When my own children were growing they loved the water we received from Windmill Water. It was the only bottled service at the time that offered fluoridated water which was essential for their health. My children grew up asking for "Lelon Water", because they loved the taste of it. I attribute my kid's healthy choices of water over other drinks to them being raised with Windmill Water. We no longer live in NM, but when we go back they always ask for it.

Please consider helping them to continue their business as they have been doing for so many years and for a great service to so many. They are truly two of the best people I know.

Marie Smidt-Hamic  
512.284.3944



**Jose Larranaga**

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**From:** cacryer@q.com  
**Sent:** Saturday, May 11, 2013 4:27 PM  
**To:** Jose Larranaga  
**Cc:** windmillwater@comcast.net  
**Subject:** Case # Z/PDP13-5080

**Categories:** Red Category

We have lived in Edgewood for 10 years and have been very dependent on 'Windmill Water' for clean, pure drinking water. We kindly request that you re-new their in-house business permit. The Windmill Water company has been very reliable and have always done business very admirably. They are an asset to the community and always operate with the highest of standards.

Thank you in advance, Clayton Cryer, 20 Barbara Lane, Edgewood, NM Phone (505)286-8130



Jose Larranaga

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From: windmillwater@comcast.net  
Sent: Thursday, May 16, 2013 8:24 AM  
To: Jose Larranaga  
Subject: Fwd: We are luck & grateful to have Wind Mill Water in our area!!!!

Categories: Red Category

Diana Richter  
Windmill Water, Inc.  
(505) 281-WATR (9287)

QUOTE From a Customer. . .  
"Providing excellent customer service is the #1 priority at my company, so I appreciate other businesses that do the same. I rely on windmill water because they deliver great tasting water to all my offices and their customer service is second-to-none."  
Express Janice Lucero, MVD

*WINDMILL BOTTLED WATER. . .SUPERIOR WATER, SUPERIOR SERVICE*

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From: "Stephanie Kaylan" <durgaomwolf@gmail.com>  
To: "Wind-Mill Water" <windmillwater@comcast.net>  
Sent: Wednesday, May 15, 2013 9:16:53 PM  
Subject: We are luck & grateful to have Wind Mill Water in our area!!!!

To whom it may concern-----

How luck we all are to have Wind Mill Water in out area.  
The owners,--- so kind, humorous & generous,---have work so very hard their whole lives to make Wind Will Water accessible to us all.

Seriously,---leave them alone.  
They have done nothing wrong.  
Why must govt. bother such kind, hard working people?  
Trust me, there are sooooo many other in the World that deserve to be harassed.  
Not these kind souls.

Help them....don't hinder them.  
They are always helping the local community.

Thank you for listening to my heart-felt words

Stephanie Kaylan  
286-2088  
Sedillo Hill



Jose Larranaga

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**From:** japhin <japhin@gmail.com>  
**Sent:** Monday, May 20, 2013 4:22 PM  
**To:** windmillwater@Comcast.net; Jose Larranaga  
**Subject:** #Z/PDP 13-5080

**Categories:** Red Category

Hello,

We've been faithful customers of Windmill Water since we moved here 5 years ago. Initially this was because we prefer to shop locally (which around here generally means very little choices.) However, there are multiple options just in the town of Edgewood for purified water. The folks at Windmill have won our hearts and our business by caring so much about producing the cleanest and best tasting water. I've had several conversations with the owner and his passion is clear and quite refreshing.

In the wake of so many other Edgewood businesses closing, it seems ludicrous to us that a small but thriving business like Windmill Water would come under such scrutiny, especially when they are clearly helping reduce our community's drain on our resources.

In fact, I would challenge the county of Santa Fe to explain to the citizens of Edgewood how additional tax monies being levied on the businesses of our town will actually benefit our little community this far from the county seat. We'd probably settle for just one plow that will actually stay here in the event that we get a real snowstorm. Or one county cop to make an appearance every now and then...

I digress. We are happy that the Windmill Water company is going to jump through all of these additional hoops at no discernable benefit to our community other than continuing to provide the excellent service Edgewood has come to expect over the last 18 years.

Sincerely,

John and Ana Phinizy  
93 Williams Ranch Rd  
Edgewood, NM





**JAMES W. SIEBERT  
AND ASSOCIATES, INC.**

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**915 MERCER STREET \* SANTA FE, NEW MEXICO 87505  
(505) 983-5588 \* FAX (505) 989-7313  
jim@jwsiebert.com**

April 15, 2013

Jose Larranaga  
Commercial Development Case Manager  
102 Grant Avenue  
Santa Fe, NM 87504

Re: Windmill Water Case #Z/PDP13-5080

Dear Mr. Larranaga,

Below is a response to agency and staff review comments for the above referenced case:

Landscape

1. *Existing vegetation which will be retained by type and size.*

All existing vegetation will be retained and is shown by type and size on the revised landscape plan.

2. *Existing vegetation which will be transplanted, or removed by type and size.*

Not applicable, all existing vegetation will remain in place.

3. *Location, type and size of plants to be installed.*

Reseeding will occur around the ponding areas designated as the passive water harvesting system. Details of the seed mix is note on P-6 of the landscape plan.



NBD-113



## Water Harvesting

1. *Conceptually the Applicant will need to provide a cistern to capture all roof drainage from all structures on the property.*

All buildings were in existing prior to the adoption of Ordinance 2003-6 and operated under a home occupation business license. A passive water harvesting system is proposed for the main commercial building.

2. *Conceptual water harvesting plan for existing structures:*

- a) *Existing residence (3,289 sq.ft.) and phase II addition (1,200 sq.ft.)*

The existing residence was constructed prior to Ordinance 2003-6 and is not being used for the commercial aspect of the water distribution business. The applicant is in agreement that at the time of construction of the addition to function as office space, a water harvesting plan will be submitted for approval.

- b) *Existing garage (1,064 sq.ft.)*

The existing garage was constructed prior to Ordinance 2003-6 and such is a pre-existing structure

- c) *Existing shed (100 sq.ft.), existing office trailer (224 sq.ft.) and existing water dispenser (80 sq.ft.)*

These are structures that existed prior to Ordinance 2003-6.

3. *A landscape plan providing a schedule specifying conceptual methods, to include type, size, and location of vegetation and non-vegetative landscape material, and a preliminary description of the irrigation to be used.*

The landscape plan provides details regarding size and type of existing vegetation. There is not a need for an irrigation system since all vegetation is at its maturity and does not require a watering schedule.

4. *Xeriscape Principles: Water requirements shall be reduced by Article III Section 4.4.4.f.6 a-c.*

The landscape plan is in compliance with this condition.



5. *Final development plan will require that a cistern and pump detail be submitted.*

The applicant is in agreement with this condition and will show the detail of the cistern at the time that the addition to the home will be made (Phase II). At that time the office trailer will be removed and the addition connected to the main house will serve as the office.

6. *Type of irrigation system that will be used to serve all landscape.*

Landscape requiring irrigation will be provided through the use of sprinklers.

#### Terrain Management

1. *The Applicants proposal shows an existing topography and soils plan, but does not show existing ponding. This can be shown on existing conditions sheet (P-3).*

A landscape pond is proposed on P-6 of the plan set. At the time of final development application for Phase I, ponding will be shown on the final development plan.

#### Environment Department

1. *The plan notes an existing liquid waste system, however there is no indication that the system is properly permitted.*

The property was purchased after the septic system was constructed. There is a septic permit under the prior owners name having permit number AT825404.

2. *There was not detailed description about the residences on site.*

There is one residence, an office trailer, water bottling plant and a water dispenser structure on site. The only bathrooms are located within the residence.

3. *There was no indication submitted that both of the on-site wells meet the required setback to the liquid waste system. This should be verified, particularly due to the type of business that is in operation at this location. The source well is permitted by the Office of the State Engineer with the permit #E06324.*

The distance from the wells to the septic system is over the 100 foot requirement shown on p-6 (landscape plan),



4. *It should also be noted that the business at this location should be in compliance with the Federal Safe Drinking Water Act, The New Mexico Food Service and Food Processing Regulations section on water bottlers and the International Bottled water Association model code.*

All the above reference certificates can be found as appendix F of the master plan/preliminary development plan report that was submitted on March 8, 2013.

Sincerely,



James W. Siebert



Member Roybal said water has always been an issue in the traditional communities and everyone cuts back in bad years. He reiterated he didn't like to see people losing rights.

Member Katz pointed out that during bad years when ditch water is not abundant there is recourse to the groundwater which is not renewable.

Mr. Garcia said he did not use his well to irrigate his fields. He did not want to be constrained to indoor use only, since he kept cattle and sheep. Ms. Lucero clarified that that was not the case; the one acre-foot was total use.

The motion to grant without water restrictions failed 2-5 with Members Anaya and Roybal voting in favor.

Chair Gonzales moved to grant the variance in CDRC CASE #V13-5140, the Robert Garcia Variance with staff conditions. The motion carried 7-0.

- D. CDRC CASE # V/Z/PDP 13-5080 Windmill Water Variance, Master Plan & Preliminary Development Plan. Diana & Leon Richter, Applicants, Jim Siebert, Agent, Request Master Plan Zoning & Preliminary Development Plan Approval to Allow a Small Scale Commercial Use Consisting of a Domestic Water Supply Service. This Request Includes a Variance of Article VII, Section 6.4.1d (Requirements for Water Availability Assessments). The Applicant Also Requests That Final Development Plan be Approved Administratively. The Property is Located at 2042 Old US 66, Near the Town of Edgewood, within Section 34, Township 10 North, Range 7 East, Commission District 3 [Exhibit 1: Letters of Support]**

Jose Larrañaga read the caption and the following staff report:

"The Applicants request Master Plan Zoning approval to allow a small-scale commercial use consisting of a domestic water supply service to be completed in two phases. The request also includes Preliminary Development Plan approval for Phase I and II. Phase I consists of a 2,200 square foot residence, a 1,064 square foot garage, a 100 square foot shed, a 1,188 square foot bottling plant, a 224 square foot office, a 5,000-gallon storage tank, a 50 square foot self-serve dispenser structure, a domestic well and a well registered with State Engineer as a commercial well. Phase II will consist of a 1,200 square foot addition to the dwelling to be utilized as an office. The site is located within the Edgewood Traditional Community where commercial zoning may be approved. The Applicants request includes that the Final Development Plan, for Phase I and II, be reviewed and approved administratively.

"Windmill Water is currently operating under a Home Occupation Business License issued by Santa Fe County in 1995. The property is within the proposed





infill annexation of the Town of Edgewood which Santa Fe County currently maintains regulatory jurisdiction of this site.

"On December 21, 1995, the Land Use Administrator approved a home occupation business license, subject to conditions, for Windmill Water. On March 2, 2010, a notice of violation was issued to Windmill Water for exceeding the home occupation business license criteria. On May 6, 2010, Leon and Diana Richter submitted a letter of intent and documents requesting a modification of the existing home occupation business license. On May 18, 2010, the LUA denied the request by Windmill Water for modification of the existing home occupation as it no longer met the criteria for a home occupation as set forth in Code. In a letter, dated May 26, 2010, the Agent on behalf of Windmill Water requested an appeal of the LUA decision to the CDRC. On May 19, 2011 the CDRC denied the Applicants' request.

"Windmill Water operates as a bottling and distribution domestic water supply service. The Applicants currently reside on the property. The request for Master Plan and Preliminary Development Plan includes a use list which is consistent with the guidelines for types of permitted uses within a small scale commercial district.

"Article III, § 4.2.2.b.1b states: 'commercial or light industrial zoning may approved in the Traditional Community provided that the re-zoning to be approved is similar in type and scale to those uses suggested for neighborhood or small scale districts by Article III, Section 4.3.2.

"The Applicants are also requesting a variance of the requirement to demonstrate a 100-year water supply as per Article VII, § 6.4.1.d.

"Article VII § 6.4.1.d. states: 'for developments where the source of water will be individual domestic wells or shared wells permitted pursuant to Section 72-12-1, the applicant shall demonstrate a one hundred-year supply and shall submit a geo-hydrologic report in accordance with Section 6.4.5, or a reconnaissance water availability assessment in accordance with Section 6.4.6, if applicable.'

"The Applicants state the following reasons to allow the variance: cost of preparing a geo-hydrological report; the property will be annexed to the Town of Edgewood and compliance with County Code is not required; business is borderline eligible for a Home Occupation Business; the well could not be used for several days during the hydrologic testing, which jeopardizes the viability of the business; the well has a 1.78 acre-foot water right associated with it and can be increased up to three acre-feet.

"Staff Response: monetary constraints are not considered a hardship by the Code; Santa Fe County currently maintains regulatory jurisdiction of this site; it has been established by the CDRC that this business exceeds the Home Occupation



criteria; the Applicant shall demonstrate a one hundred-year supply to support the use of 1.78 acre-feet water per annum.

Article VII § 6. Table 7.4 states: 'all non-residential development in which the project uses more than 0.25 acre-feet of water annually or in which the applicant obtains water other than through a well which is permitted under Section 72-12-1 NMSA 1978 as it may be amended' requires § 6.4 Water Availability Assessment.

"Building and Development Services staff has reviewed the Applicants' request for a variance of Article VII § 6.4.1.d. for compliance with pertinent Code requirements and has found that the following facts presented do not support the request: a geo-hydrologic report is required to demonstrate that groundwater sufficient to meet the maximum annual water requirements of the development is physically available and can be practically recovered to sustain the development for a continuous period of one hundred years; the Applicants shall demonstrate a one hundred-year supply to support the use of 1.78 acre-foot water per year; a variation or modification of this section of the Code may be considered more than a minimum easing of the requirements.

"Building and Development Services staff has reviewed this project for compliance with pertinent Code requirements and has found that the following facts presented support the request for Master Plan and Preliminary Development Plan: the application is comprehensive in establishing the scope of the project; the proposed Preliminary Development Plan substantially conforms to the proposed Master Plan; the Application satisfies the submittal requirements set forth in the Land Development Code, with the exception of the water availability element of the request.

"The review comments from State Agencies and County staff have established that this Application, for Master Plan and Preliminary Development Plan, is in compliance with State requirements, Article III, § 4.4, Development and Design Standards, Article V, § 5, Master Plan Procedures and is not in compliance with Article V, § 7 Development Plan Requirements of the Land Development Code regarding § 7.1.2.y."

Mr. Larrañaga said staff recommends denial of the Applicants request for a variance of Article VII § 6.4.1.d. Requirements for Water Availability Assessments. Staff has determined that without proof of adequate water availability, staff cannot support the request for Master Plan Zoning and Phase I and II Preliminary Development Plan.

If the decision of the CDRC is to recommend approval of the request for Master Plan Zoning and Phase I and II Preliminary Development Plan to allow a small scale commercial use, consisting of a bottling and distribution domestic water supply service on 2.84 acres and Phase I and II Final Development Plan be reviewed and approved administratively, staff recommends the following conditions be imposed:



1. The Applicant shall comply with all review agency comments and conditions as per Article V, § 7.1.3.c.
2. Master Plan with appropriate signatures, shall be recorded with the County Clerk as per Article V, § 5.2.5.
3. Final Development Plan for Phase I shall be submitted within a timely manner, meeting all criteria set forth in Article V, § 7, to be reviewed and approved administratively.

Member Katz said he was confused about whether the well was commercial or domestic. Mr. Larranaga said it was registered with the State Engineer as a commercial well with 1.78 acre-feet as established by proven beneficial use.

County Hydrologist Karen Torres explained the difference between commercial and domestic wells. Member Katz stated he did not believe the requirement to prove a 100-year water supply was necessary in this case since it is not a domestic well. Mr. Larrañaga referred to Table 7.4 which he said requires commercial to come in under a quarter acre-foot or have a water availability assessment if water is obtained other than through a domestic well.

Member DeAnda said she understood there were two different wells, one for domestic use for the residence, which is not at issue, and a commercial well for the bottling plant. She asked what sort of proof would be necessary to prove a 100-year water supply. Mr. Larranaga said it could be a geo-hydro or reconnaissance report, and applies only to the commercial well, with the domestic well being restricted to .25 acre-feet.

Chair Gonzales asked if the water availability was the only thing keeping the application from being approved. Mr. Larrañaga said the only question is whether they have the allotted 1.78 acre-feet for 100 years. He said this case has been going on for over two years and the business continues as they've been working with the County. If it is denied by the BCC a water availability assessment will need to be done. Noting the home occupation license was issued in 1995, Chair Gonzales asked if there was any review of the operation by the County in the intervening years. Mr. Larrañaga said this came in as a complaint; the code enforcement division is perennially understaffed.

Member Katz said it was his understanding a water supply availability assessment applied to a development where if the water runs out you leave people "high and dry." In this case if they run out of water the business would perforce cease. That being the case he did not understand why staff was recommending denial. Mr. Larranaga said the code does not specify who is affected.

Duly sworn, Jim Siebert, said there is a case currently before the New Mexico Supreme Court regarding the Town of Edgewood. If Edgewood prevails this case would go away.



Under oath Diana Richter and Leon Richter made a presentation giving the history of their business and its role in the community.

Mr. Siebert used a map to show the surrounding area. He said they do not believe a variance is needed, but applied for it per the County's request. He referred to Water Right Summaries from the OSE [Exhibit 2] that clearly distinguish the commercial from the domestic well. He said the commercial well does not fall under the requirements for 72-12-1 wells and are exempt because they have adjudicated rights from the OSE. He referred to the provisions in Ordinance 2005-2.

Member Katz noted that Table 6.4, in addition to referring to domestic wells, mentions community water systems. He asked if this could be construed as a community water system, and if the Richters closed down, would their customers have other sources to rely on. Mr. Richter said there are two other comparable businesses in Albuquerque.

Chair Gonzales asked if they increased usage would they be able to draw more water. Mr. Siebert said they can increase their usage they can send the readings to the State Engineer who can then allow a greater allotment based on beneficial use.

There was no one from the public wishing to speak on this matter.

Member Anaya said he has known the Richters for years and attested to the fact that they are good people and provide a good service to the community. He moved to approve CDRC CASE # V/Z/PDP 13-5080, the Windmill Water Variance, Master Plan and Preliminary Development Plan with conditions and without the requirement to do a 100-year water availability assessment. Member Katz seconded with the finding that the water source is not a domestic well nor a community water system, so that a variance is not necessary, but that the criteria have been met.

The carried by majority [6-1] voice vote with Member DeAnda voting against.

[The CDRC recessed from 5:45 to 5:55.]











